

1 ELLISON FOLK (State Bar No. 149232)  
ORRAN G. BALAGOPALAN (State Bar No. 341508)  
2 SHUTE, MIHALY & WEINBERGER LLP  
396 Hayes Street  
3 San Francisco, California 94102  
Telephone: (415) 552-7272  
4 Facsimile: (415) 552-5816  
folk@smwlaw.com  
5 obalagopalan@smwlaw.com

6 PHOEBE S. SEATON (State Bar No. 238273)  
MICHAEL CLAIBORNE (State Bar No. 281308)  
7 JAMIE BARCLAY KATZ (State Bar No. 325560)  
LEADERSHIP COUNSEL FOR JUSTICE AND ACCOUNTABILITY  
8 2210 San Joaquin Street  
Fresno, California 93721  
9 Telephone: (559) 369-2780  
pseaton@leadershipcounsel.org  
10 mclaiborne@leadershipcounsel.org  
jbkatz@leadershipcounsel.org

11 Attorneys for DEFENSORES DEL VALLEY  
12 CENTRAL PARA EL AIRE Y AGUA  
LIMPIO

13 *Additional Attorneys Listed on Next Page*

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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **COUNTY OF FRESNO, CENTRAL DIVISION**

17 DEFENSORES DEL VALLEY  
CENTRAL PARA EL AIRE Y AGUA  
18 LIMPIO; FOOD & WATER WATCH; and  
ANIMAL LEGAL DEFENSE FUND,

19 Petitioners,

20 v.

21 CALIFORNIA AIR RESOURCES  
22 BOARD, an agency of the State of  
California; STEVEN S. CLIFF, in his  
23 official capacity as Executive Officer of  
the California Air Resources Board; and  
24 DOES 1-10, inclusive,

25 Respondents.

Case No.

**VERIFIED PETITION FOR WRIT OF  
MANDATE**

(Code Civ. Proc. §§ 1085, 1094.5;  
California Environmental Quality Act,  
Pub. Resources Code, §§ 21000 et seq.)

1 BRENT J. NEWELL (State Bar No. 210312)  
LAW OFFICE OF BRENT J. NEWELL  
2 245 Kentucky Street, Suite A4  
Petaluma, California 94952  
3 Telephone: (661) 586-3724  
brentjnewell@outlook.com

4 Attorneys for DEFENSORES DEL VALLEY  
5 CENTRAL PARA EL AIRE Y AGUA  
LIMPIO

6 TYLER LOBDELL (State Bar No. 321128)  
7 FOOD & WATER WATCH  
1616 P Street NW, Suite 300  
8 Washington, D.C. 20036  
Telephone: (208) 209-3569  
9 Tlobdell@fwwatch.org

10 Attorneys for FOOD & WATER WATCH

11 CHRISTINE BALL-BLAKELY, (State Bar No. 441664)  
EVAN S. LEVY, (State Bar No. Pending)  
12 ANIMAL LEGAL DEFENSE FUND  
525 East Cotati Avenue  
13 Cotati, California 94931  
Telephone: (707) 795-2533  
14 cblakely@aldf.org  
elevy@aldf.org

15 Attorneys for ANIMAL LEGAL DEFENSE FUND  
16  
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1 all of the state’s dairy cows are now concentrated in the San Joaquin Valley, severely  
2 impacting communities already confronting the dual threats of environmental degradation  
3 and economic insecurity. On November 8, 2024, CARB adopted amendments to the LCFS  
4 that intensify the perverse incentives the program provides to these factory farms and,  
5 specifically, industrial style manure management.

6         3.         Factory farms use these manure management systems to produce and capture  
7 “biogas,” consisting primarily of methane that qualifies for LCFS credit generation. (For  
8 simplicity, this Petition will generally refer to factory farm biogas and its derivatives as  
9 “methane.”) This “avoided methane” crediting, which rewards factory farms for partially  
10 capturing their own methane emissions, is the most lucrative treatment given to any fuel  
11 type in the LCFS. The effects of avoided methane crediting have been catastrophic,  
12 encouraging factory farms across the nation to install digesters and expand operations, thus  
13 intensifying their environmental impacts. The LCFS amendments drastically increase the  
14 already substantial incentive for factory farms to expand their operations and install  
15 anaerobic digesters, and, if left unchallenged, will cause severe health and environmental  
16 impacts nationwide. In California, the harmful effects of the LCFS amendments will be  
17 felt most acutely in the San Joaquin Valley, impacts that CARB’s environmental  
18 documents obscure, ignore, and deny.

19         4.         CEQA requires CARB to acknowledge the obvious—that providing  
20 substantial financial benefits for the production of fuel derived from manure at factory  
21 farms incentivizes factory farm expansion. Voluminous data demonstrate that factory farm  
22 expansion is a reasonably foreseeable response to the LCFS amendments. In fact, CARB’s  
23 own environmental analysis acknowledges that factory farms will respond to the amended  
24 regulations by installing anaerobic digesters and increasing production of fuel derived  
25 from factory farm manure. However, CARB arbitrarily asserts that factory farm expansion  
26 is too speculative to be subject to environmental review, a position the agency fails to  
27 support with any credible evidence. CEQA requires that CARB not only acknowledge that  
28 factory farm expansion is a reasonably foreseeable response to the amendments, but also

1 adequately analyze the severe environmental impacts associated with such expansion.

2         5.       CARB does acknowledge that the amendments will incentivize factory farms  
3 to install new anaerobic digesters, but fails to adequately evaluate and mitigate their  
4 impacts, including increased local air pollution, impacts to groundwater, and climate  
5 change. The EIA’s analysis of the impacts associated with anaerobic digesters fails to  
6 satisfy CEQA’s mandate to thoroughly discuss a project’s significant impacts. The EIA  
7 also fails to analyze out-of-state environmental impacts, even though CARB acknowledges  
8 that factory farms across the nation are eligible to generate, and do in fact generate, LCFS  
9 credits.

10         6.       CARB also violated CEQA by failing to adopt any mitigation measures,  
11 despite concluding that the amendments would cause numerous significant environmental  
12 impacts. CARB took the position that, because it has no direct authority over the individual  
13 projects that will be implemented in response to the amendments (*e.g.*, expanded factory  
14 farm operations, anaerobic digesters), it cannot mitigate the amendments’ significant  
15 impacts. However, CEQA expressly directs lead agencies proposing changes to a  
16 regulation to adopt mitigation measures that are incorporated into the regulation itself.  
17 Petitioners proposed numerous feasible mitigation measures that would reduce the severity  
18 of the impacts associated with factory farm expansion and anaerobic digesters.

19         7.       CARB also failed to comply with CEQA by refusing to analyze feasible  
20 alternatives to the methane crediting amendments, including an alternative that eliminates  
21 all LCFS credits for fuel derived from manure methane emissions, including credits  
22 generated through avoided methane crediting. CARB also refused to analyze an alternative  
23 scenario where CARB directly regulates factory farm methane emissions.

24         8.       CARB also violated CEQA by failing to recirculate the EIA after issuing a  
25 set of modifications that would greatly increase the severity of the impacts associated with  
26 anaerobic digesters and factory farm expansion.

27         9.       As a result of these numerous defects, the EIA fails as an informational  
28 document, its conclusions are unsupported by substantial evidence, and it cannot support a

1 meaningful public process or informed decisions about the LCFS amendments by CARB.

2 10. Finally, CARB’s findings of fact and statement of overriding considerations  
3 (“Findings”), adopted in connection with the LCFS amendments are invalid because they  
4 are based on a flawed analysis of impacts, mitigation, and alternatives, and are  
5 unsupported by substantial evidence.

6 11. Accordingly, this court should direct CARB to set aside its approval of the  
7 legally deficient LCFS amendments, including but not limited to, changes related to  
8 avoided methane crediting, crediting for hydrogen dispensed as a vehicle fuel, and the  
9 carbon intensity benchmark to the extent such changes affect avoided methane crediting,  
10 certification of the EIA with respect to its failure to adequately analyze the impacts of the  
11 legally deficient LCFS amendments, and adoption of the Findings in connection with the  
12 approval of the legally deficient LCFS amendments.

13 **PARTIES**

14 12. Petitioner Defensores promotes and takes action to enforce policies and  
15 practices that decrease pollution, degradation of the environment, and other negative  
16 impacts from dairies on vulnerable communities in the San Joaquin Valley and the San  
17 Joaquin Valley region generally. Defensores, under its English-language name Central  
18 Valley Defenders of Air and Water, submitted comments to CARB objecting to and  
19 commenting on the LCFS amendments and the EIA.

20 13. Petitioner Food & Water Watch (“FWW”) is a national, nonprofit  
21 membership organization that mobilizes regular people to build political power to move  
22 bold and uncompromised solutions to the most pressing food, water, and climate problems  
23 of our time. FWW uses grassroots organizing, media outreach, public education, research,  
24 policy analysis, and litigation to protect people’s health, communities, and democracy  
25 from the growing destructive power of the most powerful economic interests. Reducing the  
26 water, air, and climate impacts of factory farming is a priority issue for the organization  
27 and its members. FWW submitted comments to CARB objecting to and commenting on  
28 the LCFS amendments and the EIA.

1           14.     Petitioner Animal Legal Defense Fund (“ALDF”) is a national nonprofit  
2 membership organization based in California with hundreds of thousands of members and  
3 supporters nationwide. ALDF’s mission is to protect the lives and advance the interest of  
4 animals through the legal system. Advocating for meaningful and effective regulation of  
5 industrial animal agriculture is one of ALDF’s central goals, which it achieves through  
6 litigation and legislative and regulatory advocacy. ALDF submitted comments to CARB  
7 objecting to and commenting on the LCFS Amendments and the EIA.

8           15.     Respondent California Air Resources Board is an agency of the State of  
9 California established and operating under the laws of the State of California. CARB is the  
10 primary state agency responsible for implementing the provisions of Assembly Bill 32, and  
11 specifically for creating, adopting, and amending the LCFS. CARB is the lead agency for  
12 environmental review of the LCFS amendments pursuant to a certified regulatory program.  
13 17 Cal. Code Regs. §§ 60000-60007.

14           16.     Respondent Steven S. Cliff is the current Executive Officer of CARB, who is  
15 made a party to this action in his official capacity only. Mr. Cliff acts as the director and  
16 manager of the CARB professionals and other staff personnel, who all report to him.

17           17.     Petitioners are unaware of the true names of Respondents sued herein as  
18 Does 1 through 10, inclusive. Petitioners are informed and believe, and on that basis  
19 allege, that Respondents Does 1 through 10, inclusive, are individuals, entities, or agencies  
20 with authority to approve and/or with an interest in the LCFS amendments. When the true  
21 identifies and capacities of these Respondents have been determined, Petitioners will, with  
22 leave of Court if necessary, amend this Petition to insert such identifies and capacities.

### 23                                   **JURISDICTION, VENUE, AND TIMELINESS**

24           18.     Petitioners reallege and incorporate by reference the preceding paragraphs in  
25 their entirety.

26           19.     This Court has jurisdiction over this proceeding pursuant to, among others:  
27 the California Constitution, Article VI, Section 10; Code of Civil Procedure Sections 1085  
28 and 1094.5; and Public Resources Code Sections 21168, 21168.6, and 21168.9. Section

1 21080.5 of the Public Resources Code and Section 1085 of the Code of Civil Procedure  
2 provide for review in this Court of actions by state agencies and their officers to determine  
3 whether those actions comply with CEQA, and the CEQA Guidelines. Accordingly, and  
4 based on the facts alleged in this Petition, this Court has jurisdiction to issue a writ of  
5 mandate on the claims presented.

6 20. Venue in this Court is proper pursuant to Section 401 of the Code of Civil  
7 Procedure because CARB is a state agency, Mr. Cliff is a state officer, and the Attorney  
8 General of the State of California has an office located in the County of Fresno.

9 21. Petitioners have complied with the requirements of Public Resources Code  
10 section 21167.5 by serving a written notice of Petitioners' intention to commence this  
11 action on Respondents. A copy of the written notice and proof of service is attached hereto  
12 as Exhibit A.

13 22. Petitioners will comply with the requirements of Public Resources Code  
14 section 21167.6 by concurrently filing a notice of their election to prepare the record of  
15 administrative proceedings relating to this action.

16 23. Petitioners have complied with the requirements of Public Resources Code  
17 section 21167.7 by sending a copy of this Petition to the California Attorney General on  
18 December 18, 2024. A copy of the letter transmitting this Petition is attached hereto as  
19 Exhibit B.

20 24. Petitioners have performed any and all conditions precedent to filing this  
21 instant action and have exhausted any and all available administrative remedies to the  
22 extent required by law.

23 25. Petitioners have no plain, speedy, or adequate remedy in the course of  
24 ordinary law unless this Court grants the requested writ of mandate to require Respondents  
25 to set aside their certification of the EIA with respect to its failure to adequately analyze  
26 the impacts of legally deficient LCFS amendments, including but not limited to, changes  
27 related to avoided methane crediting, crediting for hydrogen dispensed as a vehicle fuel,  
28 and the carbon intensity benchmark to the extent such changes affect avoided methane



1 crediting, certification of the EIA with respect to its failure to adequately analyze the  
2 impacts of the legally deficient LCFS amendments, and adoption of the Findings in  
3 connection with the approval of the legally deficient LCFS amendments. In the absence of  
4 such remedies, Respondents approval will remain in effect in violation of state law.

#### 5 **STATEMENT OF FACTS**

6 26. Petitioners reallege and incorporate by reference the preceding paragraphs in  
7 their entirety.

#### 8 **The Low Carbon Fuel Standard**

9 27. On or around September 27, 2006, the Governor of California signed into  
10 law Assembly Bill 32: the Global Warming Solutions Act of 2006, Health & Safety Code  
11 §§ 38500 *et seq.*, (“AB 32”).

12 28. AB 32, among other things, requires CARB to adopt rules and regulations to  
13 achieve the maximum technologically feasible and cost-effective greenhouse gas emission  
14 reductions from sources or categories of sources. In 2009, CARB adopted the LCFS,  
15 which is intended to reduce greenhouse gas emissions in the transportation sector.

16 29. The LCFS is a market-based compliance mechanism that establishes a  
17 declining carbon intensity benchmark against which fuel pathways are measured. CARB is  
18 required to take into account the greenhouse gas emissions associated with all of the steps  
19 of producing, transporting, and consuming a fuel when determining a pathway’s carbon  
20 intensity. Fuel pathways that are more carbon intense than the benchmark generate  
21 deficits; those that are less carbon intense than the benchmark generate credits. A fuel  
22 reporting entity, as defined in Health & Safety Code section 95481(a)(71), that generates  
23 more deficits than credits must comply with the LCFS by purchasing credits from eligible  
24 fuel producers.

25 30. In an April 2017 CARB Staff Discussion Paper, CARB announced that it  
26 would start approving LCFS pathway applications for fuel derived from animal manure  
27 that accounted for “avoided methane” emissions in CARB’s lifecycle analysis of the fuel’s  
28 carbon intensity. It formally adopted this policy change in LCFS amendments that went

1 into effect in 2019. As a result of this policy change, fuel derived from animal manure is  
2 generally considered carbon negative and factory farms that utilize anaerobic digesters to  
3 generate and capture the methane from animal manure and convert it to hydrogen,  
4 renewable natural gas, electricity, or other fuel are eligible to generate large quantities of  
5 LCFS credits. Prior to this change, biogas from animal manure was classified as a low  
6 carbon fuel in the LCFS but not a fuel with a negative carbon intensity. Now, fuel  
7 produced from manure methane generates significantly more credits on a per unit basis  
8 than any other fuel type. Credits can be generated by both in-state and out-of-state factory  
9 farms. The LCFS thus provides a strong incentive to factory farms nationwide to both  
10 expand their operations and install anaerobic digesters to maximize the financial benefits  
11 created by the LCFS.

12         31. Since 2017, factory farm consolidation and anaerobic digester installation  
13 has increased substantially nationwide. However, as is typical with environmental impacts,  
14 this consolidation has impacted low-income, minority communities much more severely  
15 than the general population. For example, in California, the San Joaquin Valley is now  
16 home to over 90% of the state’s dairy cows and the average herd size in the San Joaquin  
17 Valley grew from about 1,577 to about 2,052 between 2017 and 2022. The average herd  
18 size at a California dairy grew 12.66 percent between 2012 and 2017, and an alarming  
19 42.68 percent from 2017 and 2022, demonstrating the significant acceleration in average  
20 herd sizes following 2017.

21         32. Community members and organizations concerned about factory farm  
22 pollution and environmental justice, particularly in the San Joaquin Valley, have  
23 consistently raised the alarm that avoided methane crediting causes significant harm to San  
24 Joaquin Valley communities, which already suffer a severe pollution burden. In the San  
25 Joaquin Valley, dairies are the largest source of volatile organic compounds—precursors to  
26 ozone formation. Ozone causes a variety of respiratory illnesses, especially in children and  
27 for people who have asthma. Increasing factory farm operations and installing anaerobic  
28 digesters cause other severe environmental and public health impacts, including increasing

1 ammonia emissions, particulate matter emissions, nitrate pollution, and groundwater  
2 depletion.

3 **CARB’s Proposed Amendments to the LCFS**

4 33. On or around December 19, 2023, CARB issued a Notice of Public Hearing  
5 to Consider Proposed Low Carbon Fuel Standard Amendments. On or around January 2,  
6 2024, CARB issued an updated Notice of Public Hearing to Consider Proposed Low  
7 Carbon Fuel Standard Amendments.

8 34. Along with the Notice, CARB issued numerous documents, including: (1) an  
9 Initial Statement of Reasons; (2) a Proposed Regulation order; (3) a Standardized  
10 Regulatory Impact Assessment; (4) a Purpose and Rationale for Low Carbon Fuel  
11 Standards Amendments; and (5) a Draft Environmental Impact Analysis (“Draft EIA”).

12 **The Draft EIA**

13 35. The Draft EIA’s approach to analyzing the LCFS amendments’  
14 environmental impacts begins with identifying actions that are deemed “reasonably  
15 foreseeable compliance responses” to the amendments. Only those actions are subject to  
16 environmental analysis; all others are deemed speculative. CARB considers the installation  
17 of anaerobic digesters to be a reasonably foreseeable compliance response, but not the  
18 expansion of existing factory farms that would install these digesters (or that have already  
19 installed digesters).

20 36. The Draft EIA concluded that the amendments would have numerous  
21 significant and unavoidable environmental impacts, including impacts to air quality and  
22 hydrology and water quality. CARB took the position that it could not mitigate the  
23 amendments’ significant environmental impacts because CARB has no direct authority  
24 over the individual projects (*e.g.*, anaerobic digester installations and expansions of factory  
25 farm operations) that will be implemented in response to the LCFS amendments.

26 37. On or around February 20, 2024, Petitioners submitted joint comments  
27 explaining that the Draft EIA violated CEQA. Petitioners also submitted expert reports  
28 supporting its comments, prepared by Silvia Secchi, Ph.D., Professor, Department of

1 Geographical and Sustainability Sciences, University of Iowa; and Paul Rosenfeld, Ph.D.,  
2 Principal Environmental Chemist, Soil Water Air Protection Enterprise.

3 38. Petitioners noted three specific proposed changes to the LCFS that are  
4 designed to increase the cost of LCFS credits and, as a result, would greatly incentivize  
5 factory farms to expand their operations and install anaerobic digesters: (1) strengthening  
6 the carbon intensity benchmark, thereby increasing the price of credits for eligible fuel  
7 pathways, including electricity, natural gas, and hydrogen generated from factory farm  
8 manure methane emissions, (2) limiting biogas pathways eligible for LCFS credits with  
9 deliverability requirements, which will also increase the price of credits for eligible fuel  
10 pathways, and (3) increasing the incentive to install digesters before 2030 and expand  
11 operations by providing three, ten year avoided methane crediting periods to compressed  
12 natural gas (“CNG”), liquid natural gas, liquid-CNG and hydrogen if CARB certifies the  
13 pathway or the digester project breaks ground by December 31, 2029. The proposed  
14 amendments provided for a shorter time horizon of avoided methane crediting periods for  
15 projects installed and pathways certified January 1, 2030, or later. Petitioners explained  
16 that, by failing to analyze environmental impacts associated with the expansion of factory  
17 farms that would result from these increased incentives, the Draft EIA failed to analyze all  
18 reasonably foreseeable environmental impacts caused by the Project.

19 39. Petitioners also noted that the Draft EIA’s analysis of the impacts associated  
20 with the use of anaerobic digesters was insufficient to satisfy CEQA’s mandate that  
21 significant impacts be thoroughly analyzed and disclosed. This includes, without  
22 limitation: (1) refusing to analyze the public health impacts of emissions of ammonia, a  
23 toxic, odorous gas that also contributes to the formation of fine particulate matter (PM2.5)  
24 when it reacts with NOx as precursors to form ammonium nitrate, (2) failing to account for  
25 nitrous oxide—a greenhouse gas that has a Global Warming Potential that is 273 times that  
26 of carbon dioxide—emitted from manure biogas projects and the resulting digestate, (3)  
27 solely relying on air district data when calculating NOx emissions from flaring biogas,  
28 ignoring the ammonia in flared biogas that causes even more NOx emissions, (4) assuming

1 for purposes of determining NOx impacts that factory farms converting methane into  
2 electricity will use fuel cells, despite the fact that CARB has certified just one biogas  
3 electric vehicle pathway that relies on fuel cells, compared to 19 biogas electric vehicle  
4 fuel pathways that rely on internal combustion engines and despite the fact that the San  
5 Joaquin Air Pollution Control District has not identified fuel cells as the Best Available  
6 Control Technology (BACT) for these projects, (5) failing to analyze NOx and  
7 formaldehyde emissions from engines permitted by the District for those manure gas-to-  
8 electricity projects, (6) failing to analyze NOx emissions from biogas fuel pathways after  
9 2039, despite authorizing crediting for biogas fuel pathways well beyond 2039, and (7)  
10 ignoring odor impacts from ammonia emissions, which are particularly severe because  
11 anaerobic digestion significantly increases ammonia emissions.

12 40. Petitioners also explained that the Draft EIA failed to sufficiently analyze  
13 emissions associated with digestate, the material that results from the anaerobic digestion  
14 of manure. These flaws include, without limitation: (1) refusing to acknowledge that  
15 digestate results in significantly higher releases of ammonia, a toxic gas and PM2.5  
16 precursor, and nitrous oxide, than undigested manure, and (2) failing to adequately  
17 disclose the extent of groundwater contamination and public health impacts caused by  
18 digestate.

19 41. Petitioners also noted that the Draft EIA failed to analyze the amendments'  
20 impacts outside of California, despite factory farms across the nation being eligible for  
21 credit generation under the LCFS, no different than in-state factory farms.

22 42. Petitioners also explained that the Draft EIA's approach to mitigation was  
23 legally erroneous. Despite acknowledging the LCFS amendments will cause numerous  
24 significant environmental impacts, CARB adopted no enforceable mitigation measures.  
25 CARB justified its position by asserting it has no authority to impose mitigation measures  
26 on the individual projects (*e.g.*, anaerobic digesters, factory farm expansions) that will be  
27 undertaken as a result of the amendments. However, CEQA does require CARB to  
28 determine whether changes or additions can be made to the LCFS amendments themselves

1 that will reduce the severity of their significant environmental impacts. CARB's legally  
2 erroneous position was also grounded on the unfounded assumption that factory farm  
3 expansions and anaerobic digester installations would be subject to further environmental  
4 review before being implemented. Even if this assumption were true, the fact that another  
5 agency would conduct environmental review of specific projects does not excuse CARB's  
6 failure to evaluate the impacts of its own actions. More important, as Petitioners pointed  
7 out, both anaerobic digesters and factory farm expansions are frequently exempted from  
8 CEQA review on the grounds that the projects are ministerial or qualify for a categorical  
9 exemption, or do not require any approval. Thus, the impacts of factory farm expansions  
10 and anaerobic digester installations will go unmitigated.

11 43. Petitioners advocated for the adoption of numerous feasible measures that  
12 could mitigate the impacts of factory farm expansions and anaerobic digester installations:

- 13 a. Limit the generation of credits for fuel pathway holders for methane  
14 derived from animal manure to the volume of feedstock at each  
15 associated dairy or animal operation on January 1, 2017, or on the  
16 date the pathway was certified, whichever is earlier.
- 17 b. Restrict the generation of credits for fuel pathway holders for methane  
18 derived from animal manure located in Disadvantaged Communities  
19 as designation by the Office of Environmental Health Hazard  
20 Assessment pursuant to Senate Bill 535.
- 21 c. When calculating the carbon intensity of fuel derived from animal  
22 manure, include all emissions of greenhouse gases generated from the  
23 production of the fuel and all emissions of greenhouse gases  
24 generated from the production of the feedstock. Update the carbon  
25 intensity of each pathway for fuel derived from animal manure after  
26 making this calculation. These emissions include but are not limited  
27 to: enteric emissions; emissions from production and storage of feed,  
28 transport of feedstock, or fuel; emissions resulting from digestate

1 handling, composting or treatment; and emissions resulting from land  
2 application of manure or digestate.

- 3 d. Disapprove any application for a fuel pathway that includes the use of  
4 methane derived from animal manure which does not provide all  
5 information and calculations used to determine carbon intensity,  
6 including but not limited to: herd size; volume of feedstock produced  
7 or used; volume of biogas produced.
- 8 e. Make publicly available on CARB's website all information and  
9 calculations used to determine carbon intensity.

10 44. Petitioners also explained that the Draft EIA failed to analyze all reasonable  
11 alternatives for the LCFS amendments. Specifically, the Draft EIA failed to analyze a  
12 scenario where the State achieves its methane reduction goals through direct regulation.  
13 Petitioners argued that the Draft EIA must include an analysis of an alternative scenario  
14 where CARB eliminates all LCFS credits for fuel derived from manure methane  
15 emissions, including credits generated through avoided methane crediting, and instead  
16 implements direct regulation of factory farms.

17 45. Petitioners submitted a separate set of comments on the Draft EIA that  
18 detailed the public health impacts of the amendments. Petitioners provided a  
19 comprehensive overview of the background of the LCFS and its severe environmental  
20 impacts, explaining: (1) consolidation of the dairy industry in California accelerated after  
21 CARB began certifying fuel pathways for hydrogen, natural gas, and electricity produced  
22 from manure methane emissions, (2) this trend towards consolidation is being experienced  
23 most acutely in the San Joaquin Valley, which is now home to over 90% of California's  
24 dairy cows, (3) dairies with certified LCFS fuel pathways and digester projects are  
25 typically located in communities that are disproportionately Latino/a/e, and (4) large  
26 animal operations and anaerobic digestion exacerbate already-severe environmental harms  
27 in the San Joaquin Valley by increasing ammonia emissions, fine particulate matter, ozone  
28 pollution, nitrate pollution, odor, and depleting groundwater.

1           46.     Petitioners also explained how the LCFS creates a perverse incentive to  
2 expand factory farm operations, handle manure in ways that generate increased pollution,  
3 and install anaerobic digesters, noting that: (1) more animals produce more manure and  
4 thus more methane, (2) operators maximize the quantity of volatile organics put into  
5 anaerobic environments to maximize gas production instead of lowering methane  
6 emissions by diverting solids into dry handling systems, and (3) the most polluting factory  
7 farms receive the most favorable carbon intensity values. Petitioners also noted how the  
8 amendments will supercharge the already substantial incentive the LCFS provides to  
9 expand factory farms and install anaerobic digesters.

10           47.     Petitioners also advocated that CARB amend how it calculates the carbon  
11 intensity of fuel derived from factory farm manure to account for the true carbon intensity  
12 of factory farm methane. CARB certifies biogas fuel pathways for large animal operations  
13 with extremely negative carbon intensity values because CARB assumes a baseline of  
14 perpetual free venting of manure methane. This assumption ignores state law requiring  
15 methane reductions and the existence of procedures for treating manure that create much  
16 less methane than industrial-scale manure management systems. CARB also fails to  
17 require full lifecycle analyses for these fuel pathways by ignoring both the upstream  
18 emissions associated with feedstock production on factory farms and the downstream  
19 emissions caused by digestate, which is more prone to emitting greenhouse gases as a  
20 result of the gas production process. CARB's treatment of avoided methane crediting also  
21 assumes anaerobic digesters capture methane with a consistent high degree of efficiency,  
22 despite evidence showing this assumption is entirely unfounded.

23           48.     Petitioners also noted that state law requires CARB to ensure the validity of  
24 greenhouse gas emissions associated with the LCFS. The LCFS clearly constitutes a  
25 market-based compliance mechanism pursuant to the Health & Safety Code. CARB  
26 therefore must ensure any greenhouse gas emissions reductions associated with the LCFS  
27 are real, permanent, quantifiable, verifiable, enforceable, and additional to other emission  
28 reductions required by law. Moreover, Petitioners explained that the LCFS is an unlawful



1 attempt by CARB to comply with Senate Bill 1383’s mandate that CARB adopt direct  
2 regulations to reduce methane emissions from the animal and agricultural sector. Lastly,  
3 Petitioners noted that the amendments exceed statutory authority by proposing post-2030  
4 carbon intensity benchmarks and using the LCFS to build-out biogas and hydrogen  
5 infrastructure for use as stationary source fuels.

### 6 **The Recirculated Draft EIA**

7 49. On or around August 12, 2024, CARB issued a Notice of Public Availability  
8 of Modified Text and Availability of Additional Documents and/or Information. On or  
9 around August 27, 2024, Petitioners submitted comments explaining that the additional  
10 changes would not eliminate, and would likely increase, the incentive for factory farms to  
11 expand their operations and install anaerobic digesters. The relevant changes included,  
12 without limitation: (1) strengthening the carbon intensity benchmark in the first five years  
13 following adoption of the amendments, (2) improving the proposal by reducing the number  
14 of crediting periods for biogas fuel pathways certified before January 1, 2030 to two, rather  
15 than three, (3) moving up the starting point for the deliverability requirements under  
16 specified circumstances, and (4) allowing LCFS credit generation for hydrogen produced  
17 using fossil gas as a feedstock fuels if **and only if** it is paired with biomethane attributes  
18 like those generated from avoided methane crediting. On or around August 16, 2024,  
19 CARB issued a Recirculated Draft EIA to analyze the additional changes in the August 12,  
20 2024 Notice. The Recirculated Draft EIA did not amend any of the already insufficient  
21 analysis that Petitioners took issue with in their February 20, 2024 comments. The  
22 Recirculated Draft EIA included a discussion explaining CARB’s position that the  
23 expansion of herds at factory farms is not a reasonably foreseeable compliance response to  
24 the LCFS amendments.

25 50. On or around September 30, 2024, Petitioners submitted comments on the  
26 Recirculated Draft EIA. Petitioners explained that the Recirculated Draft EIA failed to  
27 dispute the evidence showing a clear link between the LCFS, the proposed amendments,  
28 and factory farm expansion. Petitioners also supplied a 2024 report prepared by

1 researchers at Food & Water Watch that provides clear evidence of the increase in  
2 nationwide factory farm expansion occurring after avoided methane crediting began in  
3 2017.

4 51. The Recirculated Draft EIA relied, in part, on the nationwide trend towards  
5 factory farm consolidation to justify its position that there is no link between the LCFS and  
6 factory farm expansion. Petitioners explained that the national trend towards consolidation  
7 in no way demonstrates that the LCFS has not increased the rate of expansion. Moreover,  
8 Petitioners noted that the alarming trend towards consolidation only further underscores  
9 the necessity of analyzing the LCFS amendments' contribution to that trend.

10 52. The Recirculated Draft EIA also relied on statewide data from the California  
11 Dairy & Livestock Database (“CADD”) to justify its position, asserting CARB has  
12 conducted extensive data collection on California dairies and did not find a causal link  
13 between the LCFS and herd expansion. Petitioners noted numerous flaws with the CADD  
14 data and the Recirculated Draft EIA’s reliance on it, including, without limitation: (1)  
15 CARB’s conclusion that dairies with and without digesters grew at similar rates between  
16 2017 and 2022 relies on the removal of an entire class of dairies—those that went out of  
17 business during that time, the vast majority of which were dairies without digesters, (2)  
18 CARB omits from its analysis any dairy that had a digester under construction in 2022, (3)  
19 CARB likely misclassifies many dairies that installed digesters in 2023 or after as a dairy  
20 without a digester, (4) there are significant discrepancies between the CADD and other  
21 data sources, and (5) CARB relies on CADD while it is still in draft form and before the  
22 review and incorporation of public comment as requested by CARB.

23 53. The Recirculated Draft EIA also entirely ignored other aspects of factory  
24 farm expansion, including but not limited to, increasing the amount of manure put into  
25 anaerobic environments.

26 54. Petitioners further noted that the Recirculated Draft EIA takes an arbitrary,  
27 inconsistent position towards factory farm expansion that it does not apply anywhere else  
28 in its analysis. CARB takes a broad approach to determining which actions are reasonably

1 foreseeable compliance responses, except when it comes to factory farm expansion. For  
2 example, CARB found that *global* changes in land use to produce crop-based feedstocks is  
3 reasonably foreseeable, but factory farm expansion in the San Joaquin Valley is not.  
4 Lastly, Petitioners explained that the Recirculated Draft EIA did not even attempt to  
5 remedy the numerous other flaws in the Draft EIA.

## 6 **Second Notice of Additional Modifications to the Proposed Amendments**

7 55. On or around October 1, 2024, CARB issued a Second Notice of Public  
8 Availability of Modified Text and Availability of Additional Documents and/or  
9 Information. CARB refused to recirculate the Draft EIA a second time to analyze the  
10 impacts of the second set of modifications to the LCFS amendments.

11 56. On or around October 16, 2024, Petitioners submitted comments on the  
12 Second Notice, explaining that the second set of modifications provide an even greater  
13 incentive to install digesters, and as a result expand operations, than the previous versions  
14 of the Proposed Amendments. Most significant, the second set of modifications exempts  
15 projects that break ground on or before December 31, 2029 from the existing rule that  
16 precludes avoided methane crediting for methane reductions required by law. In other  
17 words, factory farms that install digesters in the near-term will be able to sell credits for  
18 methane reductions that they would otherwise be legally required to achieve. Petitioners  
19 emphasized that this change sends a clear signal to factory farm operators to expand their  
20 operations and install digesters in the near-term so that they can continue to capitalize on  
21 the LCFS's generous incentives for decades and maximize the payout from those  
22 incentives. The second set of modifications included additional changes that incentivize  
23 factory farm expansion and digester installation, including: (1) requiring hydrogen  
24 dispensed as a vehicle fuel to be at least 80 percent "renewable" by 2030, which includes  
25 hydrogen produced using fossil gas as a feedstock if fossil gas used to produce the  
26 hydrogen is paired with biomethane attributes, (2) reverting to CARB's original proposal  
27 to allow three, ten-year avoided methane crediting periods, but only for pathways certified  
28 before the effective date of the regulation, and (3) expanding the use of "book and claim"

1 accounting that allows factory farms to sell both the produced methane and claim credits  
2 for its alleged environmental attributes by selling those environmental attributes to fuel cell  
3 producers that produce electricity for electric vehicle charging.

4 57. Petitioners explained that the significant changes in the second set of  
5 modifications would undoubtedly increase the severity of the LCFS amendments' air  
6 quality, water quality, greenhouse gas, and public health impacts, requiring recirculation of  
7 the Draft EIA.

### 8 **Final EIA**

9 58. On or around November 6, 2024, CARB issued the Final EIA for the LCFS  
10 amendments, which included responses to the comments submitted by Petitioners. In the  
11 Final EIA, CARB acknowledged that there are discrepancies in the CADD data when  
12 compared to other sources. For example, CARB acknowledged that it omitted dairies that  
13 went out of business between 2017 and 2022 from its analysis of the link between the  
14 LCFS and herd expansion. CARB also acknowledged that it omitted dairies with under-  
15 construction digesters from its analysis and failed to justify its omission.

16 59. On or around November 8, 2024, Petitioners submitted comments on the  
17 Final EIA. Petitioners explained that CARB failed once again to justify its refusal to  
18 acknowledge that factory farm expansion is a reasonably foreseeable compliance response  
19 to the amendments. Petitioners submitted a comment letter they submitted to CARB on the  
20 Dairy Sector Workshop Presentations, CADD, and CARB Staff's use of CADD.

21 60. Petitioners explained that the data CARB relied on to support its conclusion  
22 that there is no causal link between the LCFS and factory farm expansion cannot constitute  
23 "substantial evidence," as required by CEQA.

24 61. Petitioners also noted that the Final EIA failed to justify CARB's refusal to  
25 analyze out-of-state impacts caused by anaerobic digesters and factory farm expansion.  
26 Petitioners submitted an article from *The Gazette*, a local Iowa newspaper, that provides a  
27 representative overview of the LCFS's effect across the nation. Petitioners took issue with  
28 CARB's attempt to pass off its California-specific air quality, water quality, public health,

1 and greenhouse gas analysis as generally applicable to the entire nation, explaining that  
2 CARB violated CEQA’s mandate to analyze all of the LCFS amendments’ impacts.

3 62. Petitioners also noted that the Final EIA failed to remedy the cursory  
4 analysis of the environmental impacts associated with anaerobic digesters. The Final EIA  
5 took the position that the installation of anaerobic digesters at factory farms with open  
6 lagoons “does not mean that more digestate is produced,” but failed to provide a single  
7 citation to support its position.

8 63. In response to the Final EIA, Petitioners explained that CARB doubled down  
9 on its legally erroneous approach to mitigation. Petitioners further explained that each of  
10 the specific mitigation measures it advocated for is feasible.

11 64. Petitioners also emphasized that CARB failed to provide any justification for  
12 its failure to consider an alternative scenario that eliminates all LCFS credits for fuel  
13 derived from manure emissions, including credits generated through avoided methane  
14 crediting, and achieves methane emission reductions through direct regulation of manure  
15 methane emissions.

16 65. Lastly, Petitioners reiterated that the Draft EIA must be recirculated to  
17 account for the significant proposed changes in the second set of modifications to the  
18 Proposed Amendments.

19 **CARB’s Approval of the Proposed Amendments**

20 66. On or around November 8, 2024, CARB held a public hearing to consider  
21 approval of the Proposed Amendments and certification of the EIA.

22 67. By a vote of 12-2, CARB voted to:

- 23 a. Certify the Final EIA.
- 24 b. Adopt the Findings and Statement of Overriding Considerations.
- 25 c. Approve for adoption the LCFS amendments, including amendments  
26 to sections 95480, 95481, 95482, 95483, 95483.1, 95483.2, 95483.3,  
27 95484, 95485, 95486, 95486.1, 95486.2, 95487, 95488, 95488.1,  
28 95488.2, 95488.3, 95488.4, 95488.5, 95488.6, 95488.7, 95488.8,

1 95488.9, 95488.10, 95489, 95490, 95491, 95491.1, 95495, 95500,  
2 95501, 95502, 95503, and new sections 95486.3, 95486.4, and  
3 95491.2, Title 17, California Code of Regulations.

4 d. Determine there is good cause for the regulations to become effective  
5 as expeditiously as possible.

6 68. CARB filed its Notice of Determination for the LCFS amendments' EIA on  
7 or around November 22, 2024. The Notice of Determination was posted on or about  
8 November 27, 2024.

9 **FIRST CAUSE OF ACTION**

10 (Violations of CEQA, Public Resources Code §§ 21000 *et seq.* and CEQA Guidelines)

11 69. Petitioners reallege and incorporate by reference the preceding paragraphs in  
12 their entirety.

13 70. CEQA is designed to ensure that the long-term protection of the environment  
14 is the guiding criterion in public decisions. CEQA requires the lead agency for a project  
15 with the potential to cause environmental harm to prepare an environmental impact report  
16 ("EIR") that fully analyzes the project's potentially significant impacts on the environment  
17 and public services. Pub. Resources Code §§ 21002.1(a), 21080(d). The EIR must provide  
18 sufficient facts and analysis to ensure that the decision-makers can intelligently consider  
19 environmental consequences when acting on the proposed project. *Laurel Heights*  
20 *Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 405. An EIR's  
21 designation of a particular environmental effect as "significant" does not excuse the EIR's  
22 failure to reasonably describe the nature and magnitude of the adverse effect. *Cleveland*  
23 *Nat'l Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514;  
24 *Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal.App.4th  
25 1344, 1371.

26 71. CARB acts pursuant to a certified regulatory program which exempts the  
27 agency from preparing an EIR because the environmental analysis CARB is required to  
28 undertake is deemed the functional equivalent of an EIR. 17 Cal. Code. Regs. §§ 60000-

1 60007; *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 710. CARB’s  
2 actions are subject to all other applicable provisions of CEQA. 14 Cal. Code Regs. §  
3 15250; *POET, LLC*, 218 Cal.App.4th at 710.

4 72. CEQA requires lead agencies to analyze all reasonably foreseeable  
5 environmental impacts caused by a project they are proposing to approve. *Laurel Heights*  
6 *Improvement Assn.*, 47 Cal.3d at 396-98. A public agency can only omit analysis of its  
7 project’s impact as speculative after it conducts a “thorough investigation” and “note its  
8 conclusion” that the impact is too speculative to be considered. 14 Cal. Code Regs. §  
9 15145.

10 73. CEQA requires lead agencies to analyze the potentially significant impacts  
11 of a proposed project that may occur in “the area which will be affected by [the] proposed  
12 project.” 14 Cal. Code Regs. § 15360; Pub. Resources Code § 21060.5. CEQA does not  
13 limit a lead agency’s obligation to analyze the potentially significant impacts of its project  
14 to impacts that occur within the state.

15 74. CEQA mandates that the lead agency identify feasible mitigation measures  
16 that will reduce or avoid a project’s environmental impacts. Pub. Resources Code §§  
17 21002, 21002.1(b). Even where a public agency cannot entirely eliminate an impact,  
18 CEQA requires that it nonetheless reduce the impact to the extent feasible. *Sierra Club v.*  
19 *County of Fresno* (2018) 6 Cal.5th 502, 524-25. In the case of an adoption of a regulation,  
20 “mitigation measures can be incorporated into the” regulation. 14 Cal. Code Regs.  
21 § 15126.4(a)(2). An EIR must respond to comments making specific suggestions to  
22 mitigate a significant impact unless the suggested mitigation is “facially infeasible.” *Los*  
23 *Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1029. If  
24 an agency rejects a suggested measure as infeasible, the rejection must be supported by  
25 substantial evidence and free of legal error. Pub. Resources Code § 21168.5.

26 75. CEQA requires lead agencies to describe a range of “reasonable alternatives  
27 to the project,” which would “attain most of the basic objectives of the project but would  
28 avoid or substantially lessen any of the significant effect of the project,” and evaluate the

1 “comparative merits” of the alternatives. 14 Cal. Code Regs. § 15126.6.

2 76. CEQA mandates lead agencies to recirculate an environmental impact report  
3 when the agency makes changes to the project that substantially increase the severity of an  
4 environmental impact previously considered or a new significant environmental impact  
5 would result from the project. Pub. Resources Code § 21092.1; 14 Cal. Code Regs. §  
6 15088.5; *Laurel Heights Improvement Assn. v. Regents of University of California* (1993)  
7 6 Cal.4th 1112, 1130; *Western Placer Citizens for an Agricultural & Rural Environment v.*  
8 *County of Placer* (2006) 144 Cal.App.4th 890, 899-903.

9 77. CARB violated CEQA by failing to disclose, analyze, and mitigate all  
10 reasonably foreseeable impacts of the LCFS amendments, including, without limitation,  
11 impacts associated with the expansion of factory farms. CARB also violated CEQA by  
12 failing to support its conclusion that factory farm expansion is too speculative for analysis  
13 with substantial evidence.

14 78. CARB violated CEQA by failing to adequately disclose, analyze, and  
15 mitigate the potentially significant environmental impacts that the EIA purported to  
16 address, including, without limitation:

- 17 a. The amendments’ significant impacts on air quality, water quality,  
18 greenhouse gases, and public health caused by the Proposed  
19 Amendments’ incentive to install anaerobic digesters at factory farms.  
20 b. The amendments’ significant impacts on out-of-state air quality, water  
21 quality, greenhouse gases, and public health.

22 79. CARB violated CEQA by failing to adopt all feasible mitigation measures,  
23 despite concluding the LCFS amendments would cause numerous significant impacts.

24 80. CARB violated CEQA by failing to consider a range of reasonable  
25 alternatives, including, without limitation, an alternative scenario that eliminates LCFS  
26 credits for fuel derived from manure emissions and achieves methane emission reductions  
27 through direct regulation.

28 81. CARB violated CEQA by failing to recirculate the Draft EIA after issuing



1 the Second Notice of Public Availability of Modified Text and Availability of Additional  
2 Documents and/or Information, which included changes to the LCFS amendments that  
3 substantially increase the severity of the amendments’ air quality, water quality,  
4 greenhouse gas, and public health impacts.

5 82. CARB violated CEQA by failing to adequately respond to comments in the  
6 Final EIA.

7 83. As a result of these actions, CARB prejudicially abused its discretion by  
8 failing to proceed in the manner required by law, failing to support its determinations with  
9 substantial evidence, and depriving the public and decision-makers of the information  
10 mandated by CEQA. *People ex rel. Bonta v. County of Lake* (2024) 105 Cal.App.5th 1222  
11 (an “inadequate or conclusory discussion of a potentially substantial adverse change in the  
12 environment deprives the public of information necessary for informed self-government  
13 and constitutes a prejudicial abuse of discretion”).

14 84. CARB violated CEQA and the CEQA Guidelines by adopting findings of  
15 fact and a statement of overriding consideration (collectively, “Findings”) in connection  
16 with the LCFS amendments and EIA that are invalid. The Findings are legally inadequate  
17 because: (1) they are based on a flawed analysis of the LCFS amendments’ impacts and  
18 mitigation, as described in the preceding paragraphs, (2) the findings fail to adopt all  
19 feasible mitigation or a feasible alternative to reduce significant impacts from the LCFS  
20 amendments, and (3) the findings are unsupported by substantial evidence. CARB cannot  
21 simply “override” environmental impacts where, as here: (a) the EIR understates the true  
22 scope of the amendments’ impacts, (b) CARB failed to properly assess the efficacy of its  
23 adopted mitigation and therefore never determined the amendments’ true impact, and (c)  
24 CARB failed to consider or adopt feasible mitigation measures or alternatives proposed to  
25 reduce the amendments’ significant impacts.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Petitioners pray for judgment as follows:

- 28 1. For alternative and peremptory writs of mandate directing CARB to vacate

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and set aside its approval of the legally deficient amendments to the LCFS, including but not limited to, changes related to avoided methane crediting, crediting for hydrogen dispensed as a vehicle fuel, and the carbon intensity benchmark to the extent such changes affect avoided methane crediting, certification of the EIA with respect to its failure to adequately analyze the impacts of the legally deficient LCFS amendments, and adoption of the Findings in connection with the approval of the legally deficient LCFS amendments;

- 2. For alternative and peremptory writs of mandate directing CARB to comply with CEQA and CEQA Guidelines, and to take any other action as required by Public Resources Code section 21168.9 or otherwise required by law with respect to the legally deficient LCFS amendments;
- 3. For a temporary stay, temporary restraining order, and preliminary and permanent injunctions restraining CARB and its agents, servants, and employees, and all others acting in concert with CARB on its behalf, from taking any action to implement the legally deficient LCFS amendments, including but not limited to, changes related to avoided methane crediting, crediting for hydrogen dispensed as a vehicle fuel, and the carbon intensity benchmark to the extent such changes affect avoided methane crediting;
- 4. For costs of the suit;
- 5. For attorney’s fees as authorized by Code of Civil Procedure section 1021.5 and/or other provisions of law; and
- 6. For such other and future relief as the Court deems just and proper.

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DATED: December 18, 2024

SHUTE, MIHALY & WEINBERGER LLP



By: \_\_\_\_\_

ELLISON FOLK

Attorneys for DEFENSORES DEL VALLEY  
CENTRAL PARA EL AIRE Y AGUA  
LIMPIO

1856169.11

1 **VERIFICATION**

2 I, Christine Ball-Blakeley, declare as follows:

3 I am the Senior Staff Attorney of the Animal Legal Defense Fund, one of the Petitioners  
4 in this action, and am authorized to execute this verification on Petitioners' behalf. I have read  
5 the foregoing Petition for Writ of Mandate ("Petition") and know its contents.

6 The facts alleged in the above Petition, not otherwise supported by exhibits or other  
7 documents, are true of my own knowledge, except as to matters stated on information and belief,  
8 and as to those matters I believe them to be true.

9 I declare under penalty of perjury under the laws of the State of California that the  
10 foregoing is true and correct.

11 Executed on December 18, 2024, at Cotati, California.

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Christine Ball-Blakely

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# **EXHIBIT A**

SHUTE MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

ELLISON FOLK  
Attorney  
Folk@smwlaw.com

December 18, 2024

**Via E-Mail and U.S. Mail**

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814  
[cotb@arb.ca.gov](mailto:cotb@arb.ca.gov)

Re: Amended Notice of Intent to Sue Re Amendments to the Low Carbon Fuel Standard

Dear Honorable Members of the California Air Resources Board:

This letter is to notify you that Defensores del Valle Central para el Aire y Agua Limpio, Food and Water Watch, and Animal Legal Defense Fund will file suit against the California Air Resources Board (“CARB”) and Steven S. Cliff in his official capacity as Executive Officer of CARB for failure to observe the requirements of the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*, in the administrative process that culminated in CARB’s decision to approve the amendments to the Low Carbon Fuel Standard, and certify the Environmental Impact Analysis on November 8, 2024. This notice is given pursuant to Public Resources Code section 21167.5.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Ellison Folk

**PROOF OF SERVICE**

*Defensores del Valle Central para el Aire y  
Agua Limpio et al. v. California Air Resources Board*

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the City and County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, California 94102.

On December 18, 2024, I served true copies of the following document(s) described as:

**AMENDED NOTICE OF INTENT TO SUE RE AMENDMENTS TO THE LOW  
CARBON FUEL STANDARD**

on the parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address Larkin@smwlaw.com to the person(s) at the e-mail address(es) listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Shute, Mihaly & Weinberger LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 18, 2024, at San Francisco, California.



\_\_\_\_\_  
Patricia Larkin

**SERVICE LIST**

***Defensores del Valle Central para el Aire y  
Agua Limpio et al. v. California Air Resources Board***

Clerk of the Board  
California Air Resources Board  
1001 I. Street  
Sacramento, CA 95814  
[cotb@arb.ca.gov](mailto:cotb@arb.ca.gov)

1863136.1



## **EXHIBIT B**

SHUTE, MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

ELLISON FOLK  
Attorney  
Folk@smwlaw.com

December 18, 2024

**Via U.S. Mail**

Robert Bonta  
Attorney General  
California Department of Justice  
1300 I Street  
Sacramento, CA 95814-2919

Re: Notice of Filing CEQA Litigation (*Defensores del Valle Central para el Aire y Agua Limpio et al. v. California Air Resources Board*)

Dear Attorney General Bonta:

Enclosed please find a copy of the Verified Petition for Writ of Mandate (“Petition”) in the above-titled action. The Petition is provided to you in compliance with Public Resources Code section 21167.7 and Code of Civil Procedure section 388. Please acknowledge receipt in the enclosed prepaid, self-addressed envelope.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Ellison Folk

Encls.  
1861286.1