



Central California Environmental Justice Network

June 29, 2015

California Air Resources Board
1001 I St
Sacramento, CA 95815

To: Chairwoman Nichols, Board, and Staff

RE: Comments to the Proposed Cap-and-Trade Funding Guidelines

On behalf of Central California Environmental Justice Network, please accept these comments to the proposed Guidelines for investments of the Greenhouse Gas Reduction Fund. CCEJN operates as a network of organizations across the San Joaquin Valley seeking to improve programs and policies that allow for the preservation of the region's cultural and environmental resources. We bring principles of environmental justice into everything that we do, including the "We Speak for Ourselves" notion, conscious linguistic practices, engaged and meaningful public processes, considerations of cumulative impacts, celebration of community assets, etc.

Public Process

Given our focus on environmental justice, I must begin this letter calling out several procedures engaged by your agency through this process that served to disengage, or effectively limit the full participation potential of many California residents. Your agency released the documents for public comment on June 16, 2015 with the understanding that the public comment period would be closed on June 29, 2015. This effectively provided 13 days for public participation. The length of this comment period is offensive as it relates to a document that contains about \$2.3 billion in funding. Furthermore, the ARB documents were not presented in any language other than English. As an organization that primarily works with communities in the San Joaquin Valley, we know that English-only effectively and quite obviously limits the participation of Spanish & Hmong speaking populations. Even more, ARB decided to host one single workshop and public hearing in Sacramento to discuss these guidelines. In recent months, our organization combined with many others across the state requested to have as many as 10 hearings across the state. Those requests were obviously disregarded.

Interpretation of Statute

In the current funding guidance, it is specified that 25% of the proceeds are to be used providing benefits to disadvantaged communities, 10% of which has to be located directly within a disadvantaged community. This is consistent with the interim guidelines proposed last year, however, it sets for a problematic interpretation of the law. Under statute, SB 535 directs the state "to allocate 25% of the available moneys in the Greenhouse Gas Reduction Fund to projects that provide benefits to disadvantaged communities, as specified, and to allocate a minimum of 10% of the available moneys in the Greenhouse Gas Reduction Fund to projects located within disadvantaged communities, as specified." We interpret this language to mean that 10% within disadvantaged communities must be used in addition to 25% to provide benefits to disadvantaged communities. Even if ARB is uncertain about the language of this passage in the legislation, it is correct to assume that the intent of the bill was to provide important and needed benefits to disadvantaged communities across the state. Under the current interpretation that the agency is exercising, it is taking a conservative view and disregarding the

intent of the law in the process. By not adding 10% to the 25% established, the agency is taking a conservative stand that moves to provide less benefits to disadvantaged communities, clearly making a backwards step against the intent of the law.

Scope of Funding Agencies

Although the following is not totally within the authority of the California Air Resources Board, we must make this suggestion in this context because it speaks to a firm belief within our network. One important way to reduce GHG emissions from several sources, and to provide benefits to disadvantaged communities is to include a program for “targeted compliance and enforcement actions” administered by Cal-EPA and/or the Air Districts. The scope of this program, can serve the rest of the agencies as they conceptualize their own projects, and can help to bring immediate benefits to disadvantaged communities.

Context

Central California Environmental Justice Network currently hosts two resident reporting networks of environmental hazards that allow community members to inform compliance and enforcement actions in severely impacted communities in Kern and Fresno counties. Over the last several years of operations, the projects have been successful at preventing pollution from unregulated and regulated sources by informing regulatory agencies about potential violations to environmental law. These projects have prevented and/or corrected emissions from dairies, oil extraction operations, biomass power plants, agricultural burning, pesticides, contaminated soils, composting facilities, hazardous waste facilities, mobile sources, etc. These preventable emissions have undoubtedly helped disadvantaged communities, and helped to reduce GHG emissions. It is important to note that often regulatory agencies at Cal-EPA or the Air Districts cite lack of resources as a problem that limits their ability to provide pro-active and coherent enforcement

Applicability

Within the context of the GGRF funds, there are several programs that can benefit from stronger enforcement and compliance efforts, including the Low Carbon Transportation, Water & Energy Technology, Agricultural Energy and Operational Efficiency, Healthy Soils, and Waste Diversion programs. Furthermore, this program can stand on its own and significantly reduce GHG emissions via targeted enforcement and compliance actions in disadvantaged communities. For these reasons we firmly believe that this program should be included.

Job Opportunities

In almost all of the programs, ARB sets forth guidelines for providing benefits to community in relation to work hours. Currently, ARB is setting forth that the project may 1) result in at least 25% of project work hours performed by residents of a disadvantaged community, or 2) result in at least 10% of project work hours performed by residents of a disadvantaged community participating in job training programs which lead to industry recognized credentials or certifications. We contend that these numbers should be raised to at least 50% and 25% respectively, adding emphasis and points to projects that demonstrate their ability to provide wages and/or salaries that mirror those of the state’s median household income. Furthermore, we request that you add the following benefits to all programs that relate benefits via work hours with the distinction that these are “and” statements rather than “or” and thus will not count if the project only meets one of these:

1. Project prioritizes job security for residents of a disadvantaged community that are hired to complete the project, and maintain those residents through operations and maintenance of the project in future years.
2. Project provides full-time positions with benefits for residents of disadvantaged communities.
3. Project complies with all relevant laws prohibiting discrimination based on a protected status for all new hires.
4. Project submits plans for providing incentives for new employees to use alternative transportation to and from work sites.

In providing benefits to a disadvantaged community, providing only 25% or 10% of work hours to residents of that community is not enough to enhance the quality of life for the community. Furthermore, any lack of attention paid to wages and labor practices can have the opposite effect than intended and serve to further perpetuate income inequalities within already struggling communities.

On Affordable Housing And Sustainable Communities Projects

Under the draft guidelines, the section for located within that mentions that the project must be “designed to avoid displacement of disadvantaged community residents and businesses” is weak and must be strengthened. From an environmental justice perspective, this statement sounds very much like problematic legal requirements that have played out in many court cases regarding the placement of toxic waste facilities and other undesirable land-uses. The problematic elements is that often, projects that are not explicitly designed to displace disadvantaged residents, do end up causing those displacements anyway. This statement should be edited to detail a few key ways to ensure that the projects in fact avoid displacement. We propose that the statement read:

A majority (50%+) of the project is within one or more disadvantaged communities and reduces vehicle miles travelled, and the project is designed to avoid displacement of current disadvantaged community residents and businesses by 1)providing a record of public participation and public interest in the project, 2)require an economic displacement mitigation plan, 3)provide a plan for community benefits outside of the proposed project.

Furthermore, when directly talking about affordable housing projects, ARB must establish a guideline for more points to projects that allow low-income residents to reach homeownership. This can further prevent displacement in the future and allows for residents of disadvantaged communities to improve their quality of life. These projects are to provide housing that is decent, safe, and sanitary, modest in size design and cost that allows for residents to afford owning them.

Lastly, line A under the Provides Benefits to section should be updated to reflect ¼ mile as opposed to ½ mile from a disadvantaged community. This will ensure that the project is much more accessible to community members.

On Energy Efficiency and Renewable Energy

Under the criteria to qualify as located within, we suggest that you add “mobile homes” as buildings that can receive improvements. From working with low-income, minority populations in the San Joaquin Valley, we often see that mobile homes are not terribly mobile, but do tend to need costly repairs that can aid with energy conservation, but also to improve the quality of life of these residents.

On Water Use and Energy Efficiency

Under the criteria to qualify for projects located within, ARB should consider adding a section C that helps to improve, repair, or replace private water well infrastructure in disadvantaged communities. Working with these communities in the San Joaquin Valley, we often run into problems where low-income residents are dependent on private well that have not been serviced in many years. Some of these wells have begun to go dry, and/or use antiquated diesel pumps, and/or have leaks that serve to waste water and energy. In the past, it has been difficult to provide assistance to these residents given that they are on private water wells and are solely responsible for their maintenance. Nonetheless, there is room here to include them and be able to provide assistance that will ultimately serve to improve the residents' quality of life, energy, and water efficiency.

On Waste Diversion and Utilization

The current thinking for approaching this program is a bit problematic given that these type of land uses are not always considered benefits, and more often considered undesirable land uses. Therefore, presenting them as benefits when located within communities is somewhat problematic and could be contested by many community members who live near these types of land uses. This applies to things like biomass, anaerobic digesters, recycling centers, dairy digesters, etc. For these reasons, we propose that ARB make the distinction that in order for newly proposed projects to be considered benefits while proposed to be located within a disadvantaged community must comply with all of the following:

1. Provide a record for a robust public process that shows meaningful community input and community interest in the project.
2. Requires Best Available Control Technologies (BACT) to sequester GHG emissions, and criteria pollutants to a nearby community.
3. Provide a comprehensive Conditional Use Permit and Community Benefits Agreement that incorporate community mitigation methods and community requirements.
4. Provide a local hire prioritization mechanism that seeks to get a total of 60% facility employment hired from the local community.

For projects that are already located and operating within a community, the current guidelines detailed in the draft proposal for "located within" can still apply. Furthermore, ARB can provide scoring guidelines that require incentivize or provide more points for measures like traffic divergence outside of disadvantaged communities, the use of low-emission trucks, etc.

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Please consider these recommendations very carefully, as we believe they are well positioned to strengthen this program. We would love to talk about this further in future dates and will be happy to answer any questions you may have.

With Regard

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