

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

August 14, 2015

California Air Resources Board

1001 I St.

Sacramento, CA 95814

RE: Comments on Draft Funding Guidelines for Agencies Administering California Climate Investments Published by the California Air Resources Board

Dear Chairwoman Nichols, Board Members and Staff:

These comments are submitted by California Rural Legal Assistance, Inc. on behalf of our affected client communities in response to the California Air Resource Board (CARB) release of the Draft Funding Guidelines for Administering Agencies of the Greenhouse Gas Reductions Fund (GGRF) for public review and comment. We acknowledge the desire for improved public participation and appreciate the extension of the guideline comment period. The Community Equity Initiative (CEI), a program of California Rural Legal Assistance Inc., represents low-income residents of rural, unincorporated communities throughout California to obtain access to the basic necessities for safe and healthy community environment. We thank you for the opportunity to provide comments reflective of the needs of rural disadvantaged communities.

Rural disadvantaged communities face different challenges than their urban counterparts. Disadvantage in rural communities is exacerbated by the fact that rural communities are remote and cannot benefit from economies of scale. Rural residents in disadvantaged communities have dramatically reduced access to basic housing, health, education and community services, and projects and programs that benefit an urban DAC cannot necessarily be replicated in a rural setting. Low-income rural residents who lose their jobs or water supply, for example, do not have ready access to social services or funding. Rural communities also face a multitude of unique problems due to a history of underfunding rural communities at the local, state and federal level. The effects of climate change disproportionately affect rural disadvantaged communities yet due to the lack of economy of scale and low population density, and other unintended consequences of well-intended laws and programs funding is diverted away from rural areas.

The GGRF represents a colossal opportunity to invest in rural disadvantaged communities to remediate some of their worst environmental ills, address the glaring need for improved transit, basic infrastructure, affordable housing and health all while reducing greenhouse gas emissions. The GGRF also affords administering agencies the opportunity to be bold and fund innovative projects that help support climate change resilience in rural disadvantaged communities. Below we offer comments to ensure rural disadvantaged communities benefit equally from the GGRF.

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Research Rural GHG Reduction Strategies

Our client communities consist largely of low-income rural residents, many of whom are farmworkers, and belong to racial, ethnic, language and other groups protected by fair housing and civil rights laws, who work in heavy industry and agriculture. These communities have few resources to research, develop and implement GHG reduction strategies. They and we thus lack data on effective rural GHG reduction strategies. The lack of data, coupled with the lack of resources to calculate GHG reductions and develop new strategies, place rural communities at a severe competitive disadvantage when applying for funding. Rural disadvantaged communities need funding to do the initial research needed to then apply for funding for GHG reduction projects. Initial funding needs to be provided to rural communities to research and develop rural-appropriate GHG reduction strategies. They need technical assistance and especially set-aside funding in order to have a level playing field.

Currently, the guiding investment principles leave essentially no room for low-income rural communities to qualify for funds for research and planning. However, Health and Safety Code section 39712(c)(7) states that GGRF funds may be used toward “research, development and deployment of innovative technologies, measures and practices related to programs and projects funded [from the GGRF]”. Funding can and should be used to research innovative practices in rural, disadvantaged communities in order to provide them equal access and a fair and competitive spot in the process.

A large percentage of disadvantaged communities are rural, and a large percentage of climate change factors come from rural areas. Neglecting to research rural strategies prevents ARB from reaching greater GHG reductions and continues to leave rural communities without the benefit of the enacting legislation. ARB should encourage administering agencies to develop programs and award projects that will collect information on existing GHG reduction practices and possible GHG reduction practices that benefit the most vulnerable communities. We now know that projects such as low-carbon van pools for farm employee transit, affordable housing development near transit and jobs, infrastructure development and water conservation projects in disadvantaged communities can make a difference. CRLA looks forward to assisting in generating much-needed research and data from pilot projects that can demonstrate GHG reduction is possible in rural communities and scalable practices that can be replicated in rural communities to help California reach its climate goals.

GHG Quantification is a Significant Barrier for DACs

Residents in disadvantaged communities have little to no assistance from local government and often rely on only a Community Services District or a County Public Works Department for their

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

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oversight. These communities and agencies not only lack the capacity to apply for funding but also lack the science and resources needed to quantify GHG reductions in order to apply for funding. This is further exacerbated by the fact that many GHG quantification methodologies disfavor rural areas due to an urban bias. Two tools that require particular supplementary research to determine applicant eligibility and favor urban areas are Cal EE Mod and COMET-Farm, used to determine eligibility for the Affordable Housing and Sustainable Communities Program and California Department of Food and Agriculture programs respectively.

Cal EE Mod: Cal EE Mod’s testing is dependent on land-use and site specifications determined per-area, with sustainability criteria dependent on existing lifestyle and infrastructure within the community. Proposed Affordable Housing and Sustainable Communities projects as well as Sustainable Agriculture Lands Conservation Program projects in communities such as Marin receive higher scores on Cal EE Mod due to their existing sustainability indices: existing low-emissions building, sustainable workforce transit, and the ability of a proposed project to “link in” to these existing green elements. This dependence on preexisting “green elements” prevents rural disadvantaged communities from being competitive because they lack infrastructure and resources. Disadvantaged communities also have higher emission figures due to climate, topography, and concentration of toxic industries which contribute to a lower Cal EE Mod score.

ARB should require administering agencies to conduct the appropriate outreach to ensure that the target constituencies are equipped with the tools necessary to quantify their GHG reductions and their contributions to climate change mitigation. This would be the only equitable approach, completely consistent with the governing law. ARB must revise the quantification software or use a set of criteria for GHG emission reduction quantification for programs that utilize Cal EE Mod as a methodology for GHG reductions quantification in order to level the playing field for disadvantaged communities where these programs are most needed. This would satisfy the legislative purpose. Revision of all GHG quantification methodologies would ensure disadvantaged communities are not further disadvantaged by these methodologies is needed.

COMET-Farm: Quantifications of GHG reductions under CalFIRE and CDFA requires resources to be made available in rural areas to understand the GHG reduction capacity of diversified agriculture. COMET-Farm is an advanced modeling tool that is suited to large-scale agriculture and is excellent for carbon foot-print mapping for rangeland, pasture, and large scale irrigated crop land. However, it is not effective on a smaller scale. Residents of DACs, small farmers and community gardeners who are pioneering GHG reductions projects in their communities require a modeling tool that can allow non-profits, small farms and business owners to receive the same spatially-explicit data on climate and soil carbon sequestration available to large-scale growers to determine their eligibility for CalFIRE and CDFA funds. The absence of

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such a tool means that potential projects in rural areas will be unable to meaningfully compete for funding.

Employment Co-Benefits to Disadvantaged Communities

Disadvantaged communities, especially in rural areas lack job and training opportunities. GGRF projects have the opportunity to provide this. The ARB should maximize GGRF project benefits to disadvantaged communities as intended by SB 535 through language and steps designed to ensure employment and career development through all funded projects. Currently, community based projects are scored for SB 535 credit based on location in or providing benefit to CalEnviro Screen identified regions. Providing benefit to a DAC includes providing job opportunities and training. Thus a project can, but is not required to, provide employment benefits. Directing employment and training of residents of DACs for all projects in the form of job opportunity, economic development and/or partnership with vocational training organizations would be consistent with underlying law.

According to the GGRF guidelines all projects should improve employment and career opportunities for disadvantaged community residents-- however these jobs must be clean, offer a living wage, and must not be harmful to worker health. Large farms and polluting industry already supply a vast majority of employment to disadvantaged communities and residents live in an economic loop where their labor is used to expand large industry but wages remain locked, and communities are burdened with the environmental hazard of these industries. The subsidies provided through GGRF must carry with them a more concerted effort to benefit the local community's economy and/or environment in order to be true to the intention of SB 535. All projects must contain strong public participation components and jobs created should be healthy and reflective of local need and provide diverse employment opportunities.

Methane Digesters

Dairy digesters, though sequestering methane for positive impacts on global GHG reductions, do not have an impact on local criteria air pollutants such as ammonia released from concentrated dairy operations. Funding Dairy Digesters through SB 535 complicates the prioritizing of co-benefits for disadvantaged communities, as digesters represent a benefit to private companies that do not benefit the local economy. Dairy digesters do not directly improve groundwater, address odor nuisance, or make any measurable improvement to toxic local air pollution such as NOx and ammonia release.

We strongly encourage close compliance with guidelines for administration of Dairy Digester funds, and an assured reporting piece from applying dairy owners, to show a demonstrated co-benefit in the form of a community benefits agreement, a demonstrated activity to improve local air quality, a transition to organic herd-management practices, and/or a concerted contribution to

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

the local economy. Jobs creation in toxic dairy industries cannot and should not qualify as a community co-benefit. In regions where methane digesters are not elected for use by the local dairy community, ARB should maintain the authority to recycle these funds into programs in funding for renewable energy programs for small-scale growers that have both immediate co-benefits to local air quality, local food production, and local economy.

Urban Forestry

The SB 535 targets required 100% of Urban Forestry funds to go to disadvantaged communities in 2014-2015. We want to ensure that the benefits are indeed benefitting disadvantaged communities. The guidelines allow a project to count as benefitting a disadvantaged community if the trees planted are within a half mile of a disadvantaged community. This should be more specific. A project in an affluent community adjacent to a disadvantage community would still count as benefitting a disadvantaged community under the current guidelines. The guidelines should specify that a project within a half mile of a disadvantaged community can be counted if it is a project located in an area designed for the public, such as a park, community garden, or river trail. Disadvantaged communities can benefit immensely from urban forestry projects in their areas. Parks and green spaces help communities be healthier, create a more desirable place to live, and help with obesity and health. Trees lining the streets of a disadvantaged community help the community look better and prevent vandalism, provide shade which lowers the need for cooling, provides energy savings for low-income families, and provide greenhouse gas reductions.

Public Participation and Anti-Displacement

ARB's guidance must contain assurance that community residents' health, community, housing, or employment will not be directly or indirectly harmed by funded projects through GGRF. High-speed rail and other large transit projects, hydro-electric turbine projects, digesters and waste diversion projects stand particular risk to local communities and in the second funding cycle, we have already seen examples of communities that are being displaced and disproportionately impacted. Examples are in the community of Wasco in Kern County, where farmworker housing has been slated for relocation without a comprehensive plan in place to ensure security during the transition; and, in Fresno County, a host of small minority-owned businesses and some of the few standing Asian-American historical and cultural sites that are core to Fresno's ethnic heritage, are slated for removal and relocation.

Linguistically Appropriate Outreach and Technical Assistance

There are a number of great programs that target individuals, small businesses, and small farms. Outreach and technical assistance are even more important for these programs since they constitute a group that lacks expertise in grant writing and technical requirements. ARB should ensure that administering agencies undertake robust outreach efforts to reach disadvantaged

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

communities. Further, ARB must ensure administrating agencies conduct outreach, provide grant guidelines, solicitation materials, request for proposals, and technical assistance in the appropriate languages and with appropriate cultural understanding. Particularly for competitive grants for small businesses, farms, and individuals including low-carbon transit, small business and home water conservation, and solar weatherization projects. Funds to provide outreach, translation, and other methods of public outreach should come out of administrative funds.

Reports and Outreach

We look forward to online reporting where reports can be made accessible to the public with greater ease. The required reports, project profiles and estimated benefits, end-of-year reports, closeout reports, should be made public to increase transparency and public participation. In addition, a report on outreach by agency is essential. The report should document the effectiveness of an agency's or program's last public outreach efforts, and lay out the public outreach plan for the coming funding cycle. Agencies should be accountable not only for developing and implementing public outreach efforts but for assessing and improving public outreach efforts that may not be effective.

Lack of Funding for Rural DACs

SB 535 requires investment in disadvantaged communities, and those include rural communities who, despite being disproportionately burdened by climate change and greenhouse gases, are once again passed over in favor of urban communities. Rural disadvantaged communities are not benefitting equally from the improved health, infrastructure, climate change resilience and employment opportunities that come with GGRF funding. ARB should set a rural set aside, set additional incentives for projects in rural areas, award additional points in competitive solicitations for projects located within rural disadvantaged communities and find other ways to ensure rural disadvantaged communities benefit from GGRF.

Thank you for your leadership in this landmark funding program. California Rural Legal Assistance, Inc. looks forward to working with the California Air Resources Board in the finalization and implementation of these guidelines. Questions can be sent directly to Janaki Jagannath, at jjagannath@crla.org

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