



August 29, 2019

via electronic mail

Samir Sheikh
Executive Director/APCO
San Joaquin Valley Air Pollution Control District

RE: Comments on the South Central Fresno Draft Community Emission Reduction Plan

Dear Mr. Sheikh,

The above noted environmental justice organizations, along with the undersigned members of the South Central Fresno Community Steering Committee, respectfully submit the following comments regarding concerns related to the South Central Fresno Draft Community Emission Reduction Plan (hereinafter Draft CERP). These comments build on past written correspondence and comments and questions raised during steering committee meetings throughout this process.

San Joaquin Valley Air District Authority to Adopt Rules and Regulations

Our comments on the Draft CERP dated July 22nd included a number of recommendations that call on the Air District to review and strengthen existing rules and regulations to reduce air emissions and exposure to sensitive receptors within the AB 617 South Central Fresno boundaries. At the stakeholder meeting on August 27th, the Air District stated that it lacks the authority to strengthen its rules and regulations identified in our comment letter and must follow

state and federal law in response to our request that the Air District go above and beyond existing rules. The Air District has significant discretion to shape its rules and regulations related to stationary and area sources. State and federal laws set reduction targets which the District's rules must help achieve, but do not prohibit the Air District from adopting new measures to protect vulnerable populations and communities. In fact, more rules and regulations would help the region attain clean air standards and thus support compliance with federal law. We believe that review and potential revision of the rules and regulations identified in our letter is warranted simply to ensure that those rules and regulations are adequate to satisfy the Air District's obligations.

We request the Air District establish a review committee which includes Community Steering Committee members and Air District staff, to assess opportunities to strengthen Air District rules and regulations identified in our letter to reduce exposures within the South Central Fresno boundaries as part of the final CERP.

Clarify that the CERP Relates to the Specified Area, Not Simply Existing Facilities and Emission Sources in and Impacting the Specified Area

While not specifically addressed in the Draft CERP, we would like the Air District to confirm through the updated CERP that the CERP's programs, policies, and emission reduction mandates relate specifically to the AB 617 area adopted by the Steering Committee, not sources far outside the area or simply the existing facilities and emission sources in and impacting the subject neighborhoods. The purpose of AB 617 is to protect the most vulnerable communities in California from continued exposure to unhealthful levels of toxic air contaminants and criteria pollutants. To create a plan that reduces pollution from existing sources, yet does nothing to prevent harm from new emitters and new pollution sources, undermines the purpose of the legislation and represents an insult to the communities AB 617 is designed to elevate and protect.

Furthermore, within the included incentive-based strategies, many do not specify that the eligible industrial business applicants (trucking companies, manufacturing facilities, agriculture equipment, etc.) must be located or operated within the South Central Fresno boundary. We respectfully request written confirmation in the CERP that programs and policies will address future impacts to the community, and incentives are reserved for benefits within the community.

Draft CERP does not Establish Clear Quantifiable Emission Reduction Targets

With respect to quantifiable emission reduction targets, the Draft CERP acknowledges that final reduction targets have yet to be finalized. The CERP must include quantifiable reduction targets that will allow the Air District and community at large to monitor and measure progress. Additionally, the Draft CERP states that while emissions and/or exposure reductions from

emission reduction strategies are expected, there will not be a quantifiable target for certain measures including for older/high polluting passenger cars, residential burning, agricultural open burning, industrial sources, land use and urban sources and exposure reduction strategies. The Air District provides no analysis or discussion as to why this is the case. As required by AB 617, the Air District must establish quantifiable emission reduction targets.

The Draft CERP Relies Too Heavily on Incentive-based Strategies

The Blueprint states that “Each community-level emissions and exposure control strategy should incorporate a combination of mechanisms to adequately reduce emissions and exposure [...] includ[ing] an assessment of strategies in six categories: regulations, facility risk reduction audits, air quality permitting, enforcement, incentive programs, and land use, transportation and mitigation strategies” (CARB Blueprint, Appendix C, p.C-21). Of the 47 strategies listed in the draft CERP, 22 are incentive strategies, of which many are already in existence through other Air District’s programs.

Additionally, many of the existing incentive programs that were included in the draft CERP are part of the PM2.5 State Implementation Plan (SIP), which relies heavily on incentive funding to reach its PM2.5 attainment goals, as well as the Carl Moyer and Prop 1B programs.

Unfortunately, the amount that was allocated for the SIP in the current state budget is not enough to fulfill the attainment strategies included in the SIP. What we have learned from this experience is that we cannot rely solely on incentives to fix our air problems. Furthermore, the objective of the AB 617 Community Air Protection program and funds for implementation is to fulfill local community priorities and meaningfully reduce emissions at a local level and not support existing Plans.

With respect to levels of funding, the steering committee needs clarification and transparency from the District on the amount of AB 617 funds that are specifically available to the South Central Fresno community. The Draft CERP estimates that \$67 million could potentially be appropriated to CERP strategies. However, as the Draft CERP notes, these resources are not secured nor is there any guarantee of resources being available. As we have asked in the past, what is the total amount of incentive funding that the Air District currently has secured for the CERP strategies? If no sources are secured, what sources will be identified and what time frame will this funding be available?

Community Concerns and Requests Remain Unaddressed

The Community Steering Committee members of South Central Fresno have repeatedly explained that their main pollution concerns are heavy-duty trucks traveling through their

communities; the pollution from stationary sources like the biomass incinerator, the glass manufacturing facility, the petroleum terminal, and MB technology; the impacts of the City's planned increase in industrial development in and next to their community; the need for mitigation efforts and other programs that directly benefit their community; and the need for stronger enforcement and improved regulations.

Members of the Community Steering Committee created and submitted a list of 40 strategies for incorporation into the Draft CERP to address these concerns. The proposed strategies focus and accelerate actions to provide direct emission reductions within the community to maximize reductions in exposure to applicable toxic air contaminants, area wide sources and direct PM2.5 (CARB Blueprint, Appendix C, p. C-17). The strategies fall into the noted six required categories established in the Blueprint. The Air District incorporated only 1 of the 40 recommended strategies drafted by community residents into the draft CERP released on August 14, 2019. After careful review of the draft CERP, our concerns and suggestions remain the same. We therefore resubmit our proposed Draft CERP strategies for incorporation into the final CERPs they will enable the Air District to meet the Community Air Protection Program objectives that were set forth in the Blueprint.

The Community Steering Committee members have also continuously asked for the inclusion of a detailed analysis of the cumulative health impacts and to include targets in this CERP that are specific to the sensitive receptor locations that need reduced exposure. The census tracts that fall within the South Central Fresno boundary have high rates of respiratory and heart disease and high mortality in both adults and infants. The current draft CERP does not address the concerns of the community with focused actions.

Land Use, Transportation and Mitigation

Many of the strategies the members of the Community Steering Committee proposed relate to land use, transportation, and mitigation strategies. While we acknowledge that most land use authority lies within the jurisdiction of the City or County of Fresno, the Air District should still include these types of strategies in the CERP and creating a plan to commit to and implement them. Furthermore, as noted above, the Air District has discretionary authority to adopt rules and regulations that protect communities from exposure to harmful pollution. The Air District must go above and beyond what they are accustomed to implementing, and work to create a new nexus of measures, relationships, and plans. That is why the Steering Committee suggests the strategy to create a Memorandum of Understanding between the City, County, Air District, and CARB. This would also allow for careful review of existing Air District rules and regulations to identify opportunities to strengthen and/or expand existing rules.

The Blueprint states that, “CARB recognizes that, in many cases, the authority for implementing these goals will reside with local government agencies. Air districts (and CARB where appropriate) will identify appropriate strategies and approaches to engage with these agencies in an effort to obtain these goals where the air district’s regulatory authority is limited.” (CARB Blueprint, Appendix C, p. C-19). Furthermore, the Blueprint states that the Air District must, “Identify and include engagement strategies and implementation mechanisms to promote the identified land use, transportation and mitigation strategies [... and] as appropriate, consider: Development of Memoranda of Understanding with cities, counties, transportation agencies, other public agencies, or facility owners or equipment operators” (CARB Blueprint, Appendix C, p C-27). By creating a Memorandum of Understanding with the City and County of Fresno, these strategies as listed in the Blueprint can be achieved.

Enforcement

The Community Air Protection Blueprint states that “CARB and the Air District staff will partner together to build on existing enforcement efforts and identify the best path forward for enforcing air quality rules and regulations within and directly surrounding the community” (CARB Blueprint, Appendix C, p C-29).

The current Draft CERP includes 5 enforcement strategies that rely on methods that the Air District already implements. However, the community steering committee members believe that the current enforcement methods are not curtailing illegal residential and agricultural burning, illegal idling near schools, noxious fumes/flaring from facilities near homes, or heavy diesel truck idling in neighborhoods, to name a few. For example, for facilities found in violation, the Air District should require the implementation of enforceable written inspection and maintenance programs. Furthermore, we believe that implementation of the few enforcement strategies that were included in the draft CERP must be transparent and easily accessible to the public.

While the inclusion of Appendix F of the CERP, Enforcement Plan Attachments, is greatly appreciated, a common pattern found in the complaints received is the resolution outcome which shows either ‘no violation’ or ‘unable to confirm’. Of the hundreds of complaints received and witnessed by community citizens, few violations were cited. This corresponds with the fact that the community wants stronger regulations as either the current enforcement methods or regulations are not curtailing the problems that the community continues to complain about.

Furthermore, the expanded efforts need to confirm and account for improved results of emissions reductions. AB617 states that an approvable plan must include “emissions reduction targets, specific reduction measures, a schedule for the implementation of measures, and an enforcement

plan.” (Health & Safety Code: 44391.2(c)(3) While the draft CERP provides a table giving the estimate emission reductions by each measure (p 140 of Draft CERP), a timeline must be included to show when the measure will be implemented and provide the year that the reductions will be achieved.

Inclusion of Pesticide Reduction Strategies

The draft CERP does not acknowledge pesticides as a community priority other than noting regulatory authority of other agencies. As just one example, in Southwest Fresno, within the AB 617 boundary and within a one mile quadrant of Edison High School, there are 35,000 pounds of toxic air contaminant pesticides used annually. This does not include the additional amounts of pesticides used towards the southern and southeast border of the 617 community boundary. The use of 1,3 Dichloropropene (1,3-D) as a fumigant pesticide causes cancer. The steering community proposed the following strategies be included in the CERP:

Ban all untarped applications of 1,3-Dichloropropene toxic air contaminant pesticides. Reduce 1,3-D annual township cap (the cap is currently 136,000 pounds per 6x6 mile township) and/or establish cap reductions on a more granular basis to address 1,3-D spikes seen in certain sections. Make Notices of Intent (NOIs), required for restricted pesticide application publicly available online, along with County Agriculture Commissioner (CAC) approvals/denials of these NOIs. Ban all aerial applications of pesticide TACs. Establish 24/7 buffer zones of a 1 mile for all pesticide TACs for all sensitive sites, including homes, hospitals and schools. Request an evaluation of all carcinogenic TACs including pesticides, and then create emissions reduction plans in line with that analysis. Request for an evaluation of all reproductive toxicity TACs, including pesticides, and then create emissions reduction plans in line with that analysis.

As we have noted in past written correspondence and steering committee meetings, application and exposure to harmful pesticides, many of which are toxic air contaminants, is a community priority and the Air District must respond accordingly.



The undersigned acknowledge the time and effort the Air District has devoted to the AB617 Community Air Protection Program, however, the current Draft CERP relies too heavily on incentive programs, does not incorporate enough rules and regulations, and does not address

many community concerns and thus does not meet the requirements as stated in the Blueprint nor fulfill the intents of AB617.

We look forward to continuing to work with the Air District staff on fulfilling the requirements of AB 617.

Sincerely,

Ivanka Saunders
Leadership Counsel for Justice and Accountability

Nayamin Martinez,
Central California Environmental Justice
Network (CCEJN)

Monica Limon
Central Valley Air Quality Coalition

Kevin Hamilton, RRT
Central California Asthma Collaborative
(CCAC)

Samuel Molina
Mi Familia Vota

Sandra Celedon
Fresno Building Healthy Communities

Laura Moreno
Friends of Calwa

Oralia Maceda
Binational Center for the Development
Oaxacan Indigenous Communities

Members of the South Central Fresno 617 Community Steering Committee:

Estela Ortega

Bertha Menchaca

Dalia Arenas Mondragon

Lidia Vega

Irma Reyes

Lilia Becerril

Isabel Vargas

Larry Taylor

Kimberly McCoy

Sylvesta M. Hall

Oralia Maceda

Genevieve Gale

CC: Karen Magliano, Director of the Office of Community Air Protection