

GOVERNING BOARD

Buddy Mendes, Chair
Supervisor, Fresno County

J. Steven Worthley, Vice Chair
Supervisor, Tulare County

David Ayers
Mayor, City of Hanford

Drew M. Bessinger
Councilmember, City of Clovis

John Capitman, Ph.D.
Appointed by Governor

David Couch
Supervisor, Kern County

Bob Elliott
Supervisor, San Joaquin County

Christina Fugazi
Councilmember, City of Stockton

Kristin Olsen
Supervisor, Stanislaus County

Lloyd Pareira
Supervisor, Merced County

Craig Pedersen
Supervisor, Kings County

Monte Reyes
Councilmember, City of Porterville

Alexander C. Sherriffs, M.D.
Appointed by Governor

Chris Vierra
Mayor, City of Ceres

Tom Wheeler
Supervisor, Madera County

Samir Sheikh
Executive Director
Air Pollution Control Officer

Northern Region Office
4800 Enterprise Way
Modesto, CA 95356-8718
(209) 557-6400 • FAX (209) 557-6475

Central Region Office
1990 East Gettysburg Avenue
Fresno, CA 93726-0244
(559) 230-6000 • FAX (559) 230-6061

Southern Region Office
34946 Flyover Court
Bakersfield, CA 93308-9725
(661) 392-5500 • FAX (661) 392-5585

DATE: October 18, 2018
TO: SJVUAPCD Governing Board
FROM: Samir Sheikh, Executive Director/APCO
Project Coordinator: Todd DeYoung



RE: **ITEM NUMBER 11: APPROVE ADMINISTRATION OF STATEWIDE INCENTIVE PROGRAM FOR TRANSIT, SCHOOL, AND SHUTTLE BUSES FUNDED BY VOLKSWAGEN MITIGATION TRUST**

RECOMMENDATIONS:

1. Approve District administration of \$130,000,000 in statewide incentive funding to replace transit, school and shuttle buses statewide under the Volkswagen (VW) Environmental Mitigation Trust (Mitigation Trust). Under this program, the Mitigation Trust will provide up to an additional \$13,000,000 (10%) to offset the District's cost to administer the statewide program.
2. Approve the attached Budget Resolution to amend the 2018-19 District Budget to appropriate the first installment of funding, up to \$71,500,000 in unanticipated revenue, which is expected to be received in the 2018-19 fiscal year. This includes \$65,000,000 in project funds and up to \$6,500,000 (10%) to offset the District's cost to administer this statewide program.
3. Authorize the Executive Director/Air Pollution Control Officer (APCO), on behalf of your Board, to negotiate and enter into any agreements with CARB to accept and administer this funding.
4. Authorize the Executive Director/APCO, with Board Chair signature as required, to negotiate and enter into any agreements with air districts and subcontractors, as necessary, to administer this funding on behalf of CARB.

BACKGROUND:

The VW Mitigation Trust provides approximately \$423 million for California to mitigate the excess nitrogen oxide (NOx) emissions caused by VW's use of illegal defeat devices in certain diesel vehicles. The Mitigation Trust provides funding opportunities for specified eligible actions that are focused mostly on "scrap and replace" emission reduction projects for the heavy-duty sector, including on-road freight trucks, transit and shuttle buses, school buses, forklifts and port cargo handling equipment, commercial marine vessels, and freight switcher locomotives.

CARB has been designated as the lead agency to act on behalf of the State of California in implementing California's allocation of the Mitigation Trust. Based on the District's reputation for administering effective and efficient voluntary incentive programs, CARB has sought the District's assistance to administer \$130,000,000 in funding from the Mitigation Trust for the replacement of older, higher polluting transit, school and shuttle buses with cleaner technology over the next ten years. Successful implementation of these new statewide incentive programs will rely on the expertise and close collaboration of the three large air districts identified to administer these programs. The purpose of today's item is to seek your Board's approval to take on the lead role in administering \$130,000,000 in Mitigation Trust funding on behalf of CARB and work in collaboration with the South Coast Air Quality Management District (SCAQMD) and the Bay Area Air Quality Management District (BAAQMD) to administer the other allocations of Mitigation Trust funding throughout California.

DISCUSSION:

In September 2015, following an investigation, Volkswagen Group of America, Inc. admitted to the United States Environmental Protection Agency (U.S. EPA) and CARB their use of illegal software "defeat devices" in certain model year 2009 through 2015 2.0-liter diesel passenger vehicles sold in the U.S. and California. Approximately 500,000 2.0-liter vehicles were affected nationwide, with about 70,000 of those in California. Continuing investigations found about another 87,000 model year 2009 through 2016 3.0-liter diesel vehicles were also affected throughout the country, with about 15,000 of those in California. The illegal software was specifically designed to detect when the car was being tested in the laboratory and operate to meet the rigorous certification standards for emissions. The software also detected when the car was on the open road, and then effectively bypassed emissions control equipment. As a result, the NOx emissions in normal, everyday driving reached levels up to 40 times the legal standard.

On October 25, 2016 and May 17, 2017, the United States District Court, Northern District of California, approved class action settlement programs for the 2.0-liter and 3.0-liter vehicles, respectively, to compensate vehicle owners and to provide environmental

relief, as enumerated in two Consent Decrees. In California, the settlement mitigation funding from Volkswagen for installing defeat devices was divided up into multiple funding allocations, with the majority of funding (\$800 million) allocated to increasing the use of electric vehicles, and the remaining (\$423 million) allocated towards mitigation of excess NOx emissions from VW vehicles that circumvented emissions testing requirements. CARB subsequently adopted the Beneficiary Mitigation Plan for the Volkswagen Environmental Mitigation Trust to allocate the \$423 million NOx mitigation funding. Table 1 below illustrates the five separate funding categories and expected emission reductions approved under the Beneficiary Mitigation Plan submitted by CARB.

Table 1: Project Funding Categories and Allocations

Project Category	Allocation (millions)	# of Vehicles or Equipment Funded	Estimated Total NOx Reductions over 10 years (tons)
Zero-Emission Buses	\$130	425	1,650
Zero-Emission Class 8 Freight and Port Drayage Trucks	\$90	540	1,500
Zero-Emission Freight / Marine Projects	\$70	450	250
Combustion Freight / Marine Projects	\$60	830	6,750
Light-Duty Zero-Emission Vehicle Infrastructure	\$10	0	0
Reserve (Including Administrative Costs)	\$63	0	0
Totals	\$423	2,245	10,150

To administer this funding, CARB approached the District, SCAQMD and BAAQMD for assistance in recognition of our incentive program experience and challenges with implementing these programs at the state level. In discussions with CARB and the two other air districts, CARB has requested, pending District Board approval, that the District administer the \$130,000,000 zero-emission bus category statewide, while SCAQMD and BAAQMD would administer the other four categories. To administer this funding, the Mitigation Trust would provide to the District up to 10% (or \$13,000,000) in funding to offset the District's cost to administer the program over the 10-year life of the program.

NEW INCENTIVE PROGRAM FOR ZERO-EMISSION TRANSIT, SCHOOL AND SHUTTLE BUSES:

Project Funds: \$130,000,000 (two installments of \$65,000,000 each)
Administrative Funds: \$13,000,000
Program Type: First Come, First Served
Vehicles Funded: 425 (estimate)
Region: Statewide
Disadvantaged Community Benefit: 50% (target)
Time Period: 10 years

The Zero-Emission Transit, School and Shuttle Bus Project provides funding for new zero emission replacement buses for owners of transit, school, and shuttle buses. This project mitigates excess NOx emissions, reduces pollution in disadvantaged and low income communities, supports advanced technology vehicle and equipment deployments and accelerates the zero emission transformation of the heavy duty fleet.

As established in the consent decree, Table 2 below illustrates the maximum funding level per bus type:

Table 2: Maximum Funding Levels

New Bus	Maximum Funding Level
Battery Electric Transit bus	\$180,000
Fuel Cell Transit bus	\$400,000
School bus	\$400,000
Shuttle bus	\$160,000

As the project administrator, the District will conduct the following activities:

- Work with CARB, other air districts, and other public agencies to conduct statewide outreach
- Develop, in collaboration with the other implementing air districts, a statewide reporting database to centralize program implementation results and benefits
- Develop and make available a streamlined online application process
- Develop guidance documents, template agreements, and other program materials
- Review applications for completeness and eligibility
- Complete required inspections of new buses funded under the program
- Document and confirm scrapping of old buses
- Approve and enter into contractual agreements with eligible applicants to purchase replacement buses
- Track and report on program funding and financial transactions
- Collect and analyze annual report information from program participants

Timeline:

Table 3 below illustrates the tentative general timeline for this program. CARB has proposed splitting the funding into two allocations, with the first allocation of \$65,000,000 launching by March, 2019 and the second allocation following approximately two years later. The time between solicitations will be used to evaluate the program and make necessary adjustments to ensure CARB’s goals for the program are met.

The District anticipates that a majority of the work in conducting outreach, evaluating applications and executing agreements will occur during the first five years of the program. However, given the uncertainty in lead time for zero-emission bus deliveries, the District will likely be verifying new bus delivery and evaluating claims for payment for several years.

Table 3: Tentative Timeline

Fall 2018:	<ul style="list-style-type: none"> • Execute Agreement with CARB • Begin modifications to Grants Management System • Begin development of website and outreach materials • Begin development of statewide database
January 2019:	<ul style="list-style-type: none"> • Begin statewide workgroup meetings in coordination with SCAQMD and BAAQMD (six meetings minimum)
February 2019:	<ul style="list-style-type: none"> • Begin statewide outreach • Develop Implementation Manual
March 2019:	<ul style="list-style-type: none"> • Finalize Implementation Manual • Launch initial solicitation
March 2019 - 2028:	<ul style="list-style-type: none"> • Ongoing outreach • Evaluate applications • Execute agreements with applicants • Verify new vehicle delivery • Process claims for payment for new vehicles • Track and evaluate annual reports • Required reporting to CARB

Staffing Resources to Support Effective Implementation of Significant New Incentive Funding:

Given the enormous challenges faced by the Valley in meeting the ever-tightening health-based air quality standards, significant investment in voluntary incentive programs is critical. With direction from your Board, the District, working closely with Valley stakeholders, has been successful at the state and federal level in advocating for significant additional incentive funding for the Valley. Recent examples of this substantial increase in funding include \$108 million in FARMER Program funding and \$88.4 million in AB 134 funding allocated to the District for emission reductions projects

in the current fiscal year. All of this new incentive funding includes administrative funding provided by the state to fully offset the District's costs for administering these programs.

While your Board has taken action to add staffing resources needed to effectively administer the initial allocations of each of these funding sources, additional staffing resources will be necessary to effectively administer significant new incentive program funding that will be allocated to the District in the coming years. The 2018-19 state budget includes an additional round of comparable funding for the FARMER Program and AB 617 community incentives that will bring approximately \$180 to \$200 million in new incentive funding to the Valley in the coming year.

With all of this significant new funding anticipated for allocation to the District in the coming year, including new VW funding, it is clear that additional staffing will be needed to efficiently and effectively administer this funding and achieve the expected clean air benefits. In the coming months, the District anticipates returning to your Board to accept new state FARMER and AB 617 incentive funding, and will provide any required staffing recommendations only after a thorough analysis of our existing and forecasted staffing requirements and implementing necessary streamlining and efficiencies.

FISCAL IMPACT:

Approval of the attached Budget Resolution will increase the District's 2018-19 Budget revenues and appropriations in the amount of \$71,500,000, which represents the first allocation of funds under this program, and what the District expects to receive during the 2018-19 fiscal year. This includes \$65,000,000 in project funds and up to \$6,500,000 (10%) to offset the District's cost to administer this statewide program.

Attachment: Budget Resolution (3 pages)

San Joaquin Valley Unified Air Pollution Control District
Meeting of the Governing Board
October 18, 2018

**APPROVE ADMINISTRATION OF STATEWIDE
INCENTIVE PROGRAM FOR TRANSIT, SCHOOL, AND
SHUTTLE BUSES FUNDED BY VOLKSWAGEN
MITIGATION TRUST**

Attachment:

Budget Resolution
(3 PAGES)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE GOVERNING BOARD OF THE
SAN JOAQUIN VALLEY UNIFIED
AIR POLLUTION CONTROL DISTRICT**

IN THE MATTER OF INCREASING THE
2018/19 DISTRICT BUDGET \$71,500,000
FOR THE RECEIPT OF VOLKSWAGEN
ENVIRONMENTAL MITIGATION TRUST
REVENUE FROM THE VOLKSWAGEN
ENVIRONMENTAL MITIGATION TRUST
TO IMPLEMENT A PROGRAM TO
REPLACE TRANSIT, SCHOOL AND
SHUTTLE BUSES STATEWIDE

RESOLUTION NO. _____

WHEREAS, The San Joaquin Valley Unified Air Pollution Control District (District) is a duly constituted unified district, as provided in California Health and Safety Code sections 40150 to 40161, and;

WHEREAS, the District is authorized by California Health and Safety Code section 40702 to make and enforce all necessary and proper orders, rules and regulations to accomplish the purpose of Division 26 of the Health and Safety Code, and;

WHEREAS, The Volkswagen (VW) Mitigation Trust provides approximately \$423,000,000 for California to mitigate the excess nitrogen oxide (NOx) emissions caused by VW's use of illegal defeat devices in certain diesel vehicles, and;

WHEREAS, The California Air Resources Board (CARB) has been designated as the lead agency to act on behalf of the State of California in implementing California's allocation of the Mitigation Trust, and;

WHEREAS, CARB sought the District's assistance to administer \$130,000,000 in funding from the Mitigation Trust for the replacement of older, higher polluting transit, school and shuttle buses with cleaner technology over the next ten years, and;

WHEREAS, the District has agreed to administer these new statewide incentive programs, and;

WHEREAS, monies for the first installment of these projects were not reflected in the Appropriations and Estimated Revenues of the 2018/19 District Budget, and;

1 OPERATING - TRANSFERS IN
2 GENERAL FUND ADMIN EARNED \$ 6,500,000
3 100-4720-160-100
4 NON-OPERATING - TRANSFERS OUT
5 PROGRAM ADMIN COSTS \$ 6,500,000
6 560-9020-160-100

6 Approved as to Accounting Form

7 By _____
8 Mehri Barati
9 Director of Administrative Services

10 **THE FOREGOING** was passed and adopted by the following vote of the Governing
11 Board of the SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT
12 this 18th day of October, 2018, to wit:

13
14 AYES:

15
16 NOES:

17
18 ABSENT:

19
20 SAN JOAQUIN VALLEY UNIFIED
21 AIR POLLUTION CONTROL DISTRICT

22 By _____
23 Ernest Buddy Mendes, Chair
24 Governing Board

25 ATTEST:
26 Clerk to the Governing Board

27 By _____
28 Michelle Franco