



Thursday, July 14, 2022

RE: Resignation from Emission Reduction Credit Public Advisory Workgroup

TO: Samir Sheikh, Morgan Lambert, Errol Villegas, Brian Clements, San Joaquin Valley Air Pollution Control District

Cc:

Todd Sax, Courtney Graham, Dave Mehl, California Air Resources Board
Meredith Kurpius, Laura Yannayon, Jesse Lueders, US Environmental Protection Agency, Region 9

To Whom It May Concern,

Effective immediately, we resign our positions as public representatives to the Emission Reduction Credit (ERC) Public Advisory Workgroup (PAW). As representatives of the public, we can no longer be party to a sham process that gives the appearance of addressing systemic problems while sidestepping accountability, sweeping historical failures under the rug, and focusing only on how to generate more credits within a broken system. We are gravely disappointed in the lack of constructive dialogue and substantive outcomes despite the PAW being convened for almost 2 years. Recent investigative reporting by Aarón Cantú ([California Air Regulators Try to Salvage Faulty System That Permitted 'Extreme' Pollution](#) and [Sporadic Monitoring of Emissions in California Oil Country Adds to Air Pollution Concerns](#)) further validates that while industry has gained from the failures of the ERC system, public health has been harmed.¹ The San Joaquin Valley Air Pollution Control District (Valley Air District) is an

¹ An Earthworks analysis found that the Emissions Reduction Credit program has historically been used largely by the oil industry,^[2] and a subsequent program review conducted by the California Air Resources Board showed that the ERC program lacks transparency and consistency in keeping paperwork and applying policies, including errors that resulted in the failure of 2 banks to pass equivalency.^[3] Additionally, EPA staff publicly stated at a recent PAW meeting that credit prices were artificially suppressed for years as a result of these failures. The Valley Air District has also lost several lawsuits that have delayed implementation of best practices for attaining clean air, including the court vacating a rule to exempt Valley refineries from monitoring requirements.^[4]

[1] <https://west.stanford.edu/works/why-your-air-will-not-get-better-path-dependence-and-capture-air-quality-regulation>

[2] <https://earthworks.org/publications/undeserved-credit-why-emissions-banking-in-californias-san-joaquin-valley-puts-air-quality-at-risk/>

[3] https://ww2.arb.ca.gov/sites/default/files/2020-06/SJV_ERC_FINAL_20200604.pdf

[4] <https://oag.ca.gov/news/press-releases/attorney-general-bonta-secures-victory-lawsuit-protect-san-joaquin-valley>

agency captured by the industries it is meant to regulate. This pattern of subsidizing the oil industry and obstructing or delaying best practices comes at a severe cost to public health and local economies.

For many years, the Central Valley Air Quality Coalition (CVAQ) and partners have pursued justice, transparency, and accountability from air quality regulators, including by raising concerns about the integrity of individual credits as well as all aspects of the ERC program. Additionally, we as public representatives have raised concerns regarding both process and outcomes (or lack thereof) during numerous PAW meetings. Rather than addressing concerns raised by public representatives of the PAW, or resolving outstanding issues from the California Air Resources Board's 2020 program review, meetings have mainly consisted of redundant technical information about potential avenues for issuing additional credits. In a February 11, 2022 letter, public representatives of the PAW requested recorded meetings, an independent facilitator, and a work plan for resolving outstanding issues, of which only the first request has been met. The Valley Air District continues to insist on a "forward facing" approach. Continued refusal to address past mistakes only further erodes trust in the San Joaquin Valley Air District. This historical amnesia allows continued harm to public health and environmental justice communities in what is already one of the poorest and most polluted places in the United States.

We continue to demand accountability and reconciliation of systemic failures, including but not limited to:

- A full review of all credits in the nitrogen oxides (NOx) and volatile organic compounds (VOC) banks rather than a statistically significant sample
- A full review of the 4 other banks within the ERC system
- Permanent removal of invalid credits
- Discontinuation of the greenhouse gas emissions bank
- Quantification of and reconciliation for additional emissions caused by overvalued or fake credits, including credits issued during the timeframe when the NOx and VOC banks would have failed the equivalency demonstrations if the system had been managed properly, which resulted in permits being issued that used ERCs at an inflated value.

To be clear, CVAQ and partners will continue to closely track this process and program, and pursue justice for the public health harms caused.

Fundamentally, the ERC system has privatized profits for the oil industry and other major pollution sources while socializing the cost onto the breathers of the San Joaquin Valley, especially environmental justice communities. Market-based pollution crediting systems are inherently flawed and should be ended. If this banking system is to remain in place, reconciling past problems is integral to transparency and accountability and is imperative to health equity

and justice in the San Joaquin Valley. We continue to urge you to fully assess and address problems with individual credits and every aspect of the ERC program.

Sincerely,

Dr. Catherine Garoupa White
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Senior Research and Policy Analyst, Earthjustice

Jesus Alonso
Kern Oil and Gas Organizer, Clean Water Action