August 5, 2016

Assistant Attorney General
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

Submitted via email to: pubcomment-ees.enrd@usdoj.gov

Re: Proposed Partial Consent Decree Under the Clean Air Act in In re Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation, Case No: MDL No. 2672 CRB (JSC), and D.J. Ref. No. 90-5-2-1-11386

Dear Assistant Attorney General:

We commend your office for taking swift and aggressive action to hold Volkswagen accountable for its deceptive marketing and its emissions cheating that has led to damaging climate and health impacts.

We are pleased to see that the Proposed Partial Consent Decree includes dedicated funds to improve and—most critically—to electrify our nation’s vehicle fleets. Transportation electrification is vital to reduce oil dependence, improve public health, and achieve federal air quality and carbon emissions reductions goals. Our overarching purpose in submitting these recommendations is to ensure that investments made with settlement funds are forward thinking, equitable, and will result in meaningful emissions reductions from the transportation sector.

Sierra Club is the nation’s oldest and largest grassroots environmental organization with more than 2.4 million members and supporters. Sierra Club works to move America beyond the use of fossil fuels and toward renewable energy and clean transportation solutions. Sierra Club has been a leading voice on policies and programs for clean vehicles, from defending vehicle efficiency standards to promoting vehicle electrification through public and policy engagement on the benefits of electric cars, trucks, and buses.

We respectfully submit the following recommendations on the Proposed Partial Consent Decree:

1. **Investments should result in benefits for communities disproportionately impacted by air pollution.** Low-income residents and people of color in the U.S. are disproportionately exposed to air pollution, including emissions from diesel-powered freight vehicles and buses as well as heavy traffic corridors. For the $2 billion allotment of funds assigned to electric vehicle (EV)
infrastructure programs, we believe there should be a designation for installation in low-income areas. We should also ensure that EV infrastructure funds are spent, in part, on improving access to charging at multi-unit dwellings and workplaces as well as to establish direct current fast charging stations—charging locations and applications that are critical for improving adoption and which often face unique market barriers. For the $2.7 billion allotment, we believe that benefits from funds spent on electrification or efficiency improvements to heavy-duty equipment and transit buses should be inclusive of and directed toward low-income areas most impacted by this pollution.

2. **Investments should support zero emission transit buses and not natural gas or diesel buses.**

   We are pleased to see that one of the possible areas for spending of the settlement funds includes transit buses. However, we are concerned that, as proposed, the funds can be spent on a switch to compressed natural gas (CNG) and so-called “clean diesel” buses. To effectively reduce emissions, we hope this part of the program will instead be restricted to zero emission buses that include battery electric and solar-derived hydrogen fuel cell buses. A recent demonstration project conducted by the National Renewable Energy Laboratory found that battery electric buses have an average fuel economy four times higher than that of CNG buses.\(^1\) Moreover, diesel exhaust contains more than forty toxic air contaminants that can cause or contribute to cancer, asthma and other respiratory illness, heart disease, and developmental and reproductive impacts. The following table lists average greenhouse gas emissions factors for different bus fuel types\(^2\), and illustrates that only full battery electric and hydrogen fuel cell buses present us with truly cleaner transit bus choices for our communities.\(^3\)

<table>
<thead>
<tr>
<th>Bus Fuel type</th>
<th>GHG Emissions factor (grams per mile)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diesel standard</td>
<td>~3,000</td>
</tr>
<tr>
<td>CNG standard</td>
<td>~2,800</td>
</tr>
<tr>
<td>Diesel-hybrid standard</td>
<td>~2,300</td>
</tr>
<tr>
<td>Fuel cell</td>
<td>~1,550</td>
</tr>
<tr>
<td>Full electric</td>
<td>~650</td>
</tr>
</tbody>
</table>

3. **Education and outreach should be conducted in partnership with dedicated organizations.**

   We are pleased to see that settlement funds will be spent in part on public education. Indeed, most

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\(^1\) The NREL report found that the battery-electric buses had an overall average efficiency of 2.15 kWh per mile, which equates to a 17.48 miles per diesel gallon equivalent. The baseline CNG buses had an average fuel economy of 4.04 miles per gasoline gallon equivalent, which equates to 4.51 miles per diesel gallon equivalent. See Eudy, Prohaska, Kelly & Post, *Foothill Transit Battery Electric Bus Demonstration Results*, National Renewable Energy Laboratory (2016), available at [http://www.nrel.gov/docs/fy16osti/65274.pdf](http://www.nrel.gov/docs/fy16osti/65274.pdf).


Americans are still unaware of the many benefits of switching to an EV. To ensure that education and outreach are successful, these efforts should be conducted by and in partnership with organizations that are experienced in community education and electric vehicle promotion. For example, National Drive Electric Week, a nationwide initiative organized by Sierra Club, Electric Auto Association, and Plug In America, partners with government leaders and local organizations—such as the Department of Energy’s Clean Cities Coalitions—in hundreds of cities to improve education and awareness of electric vehicles. Events like these have been successful because they leverage the strength of the existing, on-the-ground network of organizations committed to advancing clean transportation. Any education and outreach efforts conducted under the settlement should likewise partner with experienced organizations, which can ensure that funds used to educate consumers will be spent strategically, including at workplaces and community events as well as on high-traffic traditional and social media.

4. **Settlement funds should add to, and not replace, existing clean transportation initiatives.** To make an impact, the settlement funds for infrastructure and incentives must be considered additive to, and not as a replacement for, current infrastructure or incentive funding and programming. To truly offset the emissions cheating, the settlement should result in widespread gains in clean transportation, which requires new or expanded initiatives in numerous states. For states on the forefront of clean transportation planning, such as California, the settlement funds should not replace existing funding allotments already planned to be dedicated to zero-emission vehicle (ZEV) infrastructure and incentive programs.

5. **The administration of the ZEV Investment Commitment lacks transparency and process for meaningful stakeholder engagement.** It is not clear from the Proposed Partial Consent Decree how stakeholders may track or influence the various developmental stages of administration of the ZEV Investment Commitment funds. To ensure that these funds result in strategic investment that lowers barriers to ZEV adoption, the settlement should provide for greater formal input from stakeholders experienced in the planning and deployment of ZEV infrastructure at both the development and implementation stages.

6. **Resale of partially fixed vehicles should be prohibited.** As we understand from the settlement documents, the repaired Volkswagen vehicles will still exceed their original emissions certification levels. According to health experts, these excess emissions, including nitrogen oxides, pose serious risks to human health. We urge you to not allow Volkswagen or other parties to buy back and resell vehicles that exceed the original emissions certification levels.

Thank you for your attention to these important matters.

Sincerely,

Gina Coplon-Newfield
Director, Electric Vehicles Initiative