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## Volkswagen Settlement Update

### **Introduction**

The VW settlement is a huge opportunity for Vermont to not only immediately reduce our emissions but also begin the transformation of our transportation sector that will result in long term reductions in greenhouse gas emissions and other pollutants and boost economic growth. VPIRG recommends that these funds be prioritized for electrification, starting in particular with electric school buses for Vermont schools.

In determining the appropriate use of the settlement funds, we should not be looking at these funds in a vacuum. As you have heard today, all of our work in the transportation arena is in the context of our state goals and statutes around renewable energy and greenhouse gas emissions. Our use of the VW settlement funds should align with these goals, and the Beneficiary Mitigation Plan should clearly lay out that priority. The Comprehensive Energy Plan goal is to increase renewable transportation to 10% by 2025 and 80% by 2050, and to reduce greenhouse gas emissions by 40% below 1990 levels by 2025 and by 80-95% by 2050. State law calls for a 50% reduction of the state's greenhouse gas emissions below their 1990 levels by 2028, and a 75% reduction by 2050. Electrification of our heavy duty transportation fleets is the best way to use these funds to accelerate progress towards our goals.

VPIRG recommends that the Beneficiary Mitigation Plan for the VW Settlement be dedicated 100% to electrification and primarily targeted at replacing diesel school buses with electric school buses.

### **Settlement Parameters Encourage Electrification**

Legally, the funds can be used for any of the ten Eligible Mitigation Project categories. Beyond the limit of 15% for light-duty infrastructure, there are no confines on the breakdown between different project categories. Each of the eligible actions reduce NOx and, according to the Department of Justice (DOJ), "have a proven track record, are cost effective, are relatively straightforward, and can be approved by the Trustee and implemented by state and tribal Beneficiaries in an efficient and expeditious manner." Limiting the list to these ten actions "allows Beneficiaries flexibility to implement a range of projects within their jurisdiction, while still ensuring that the Trust is effective at accomplishing its goal of fully mitigating the excess NOx attributable to the subject vehicles."<sup>1</sup> In other words, because these ten actions were already previously vetted for cost effectiveness, any allocation between the actions is permissible under the settlement and would fully meet the requirement that the settlement mitigate the NOx from Volkswagen vehicles in Vermont.

Beyond simply allowing electrification as an eligible action, the settlement in fact puts a finger on the scale for electrification by allowing 100% funding for public electrification activities (which include school bus fleets, even if operated by independent parties contracted by the school). The settlement

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<sup>1</sup> US DOJ, Motion for Entry of Partial Consent Decree, Ex. 5, p. 18. <https://tinyurl.com/ybssg3nz>.

also allows more favorable cost share structures for private electrification projects, including charging infrastructure associated with all-electric vehicle repower or replacement. Clearly the settlement recognizes the upfront cost differences and has accounted for that in determining these cost share calculations to ensure electrification is included as a viable option. There are also project categories in which the only option for repower/replacement is electrification.<sup>2</sup>

In addition, the Trust requires that the beneficiary use the funds to help communities that have been disproportionately affected by these emissions. Vermont does not have air quality non-attainment areas, but we do have smaller areas of congestion where emissions can be problematic, particularly for Vermonters who are susceptible to pollution-related health issues, including children, elderly, and low-income communities.

### **The “But For” Test**

The state should consider the “But For” test when making decisions about funding opportunities. Simply put, settlement dollars should be used for projects that would not happen but for this funding opportunity. Electric vehicle replacements, in particular school and transit buses, meet the “But For” test, while alternative diesel technologies do not.

Alternative diesel vehicles are rapidly becoming mainstream. As schools and other fleet managers replace outdated diesel vehicles, they will necessarily be replacing them with lower emitting diesel alternatives. However, the upfront cost of electric vehicles make them out of reach for most fleet managers without some kind of upfront incentive.

While funding alternative diesel vehicles would be permissible under the settlement, since they do reduce NOx emissions, this would be out of line with our state goals. Alternative diesel vehicles still emit other greenhouse gases. In addition, we would continue sending our money primarily out of state for fuel, and the overall lifetime cost is higher (because of both higher fuel costs and higher maintenance cost for diesel vehicles as opposed to electric).

### **Why School Buses**

In particular, the Beneficiary Mitigation Plan should prioritize funding electric school buses. For one, recognizing the settlement’s prioritization of disproportionately impacted communities, children are among the most vulnerable to health impacts from air pollution caused by diesel emissions. Providing children with truly clean transportation to and from school would be a significant benefit to our entire state. In addition, this would create opportunity for nearly every community in the state to have access to the funds. Electrifying public transportation would also be a use of the VW funds that VPIRG would support, if not prioritize, but we are advocating specifically for electric school buses today because there are limited areas in Vermont that currently have public bus systems. This is not true for school buses, which are used across the state. But the upfront cost of electric school buses (2-3x the cost of a new diesel bus) is still out of reach for school districts, so this application would meet the “but for” test.

Not only that, but electrification actually saves money for utility ratepayers. In particular, electric school buses can be assets to the distribution utilities. Because they will generally be charging during low-demand hours (nights, mid-days), they increase the electric load without increasing demand. This puts

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<sup>2</sup> US DOJ, Partial Consent Decree, App. D-2, p. 5-7. <https://tinyurl.com/y7scscpf> (accessed Sep 6, 2017).

downward pressure on rates. They can also relieve grid congestion in areas with significant amounts of solar (when charging during the day, the buses would immediately use local solar power, relieving pressure on distribution and transmission lines).

This is part of the reason that the legislature passed the Energy Transformation requirement (or Tier III) of the Renewable Energy Standard. This requirement allows the distribution utilities to incentivize electrification projects in their territories (this program recognizes the exact benefits discussed above). Pairing the settlement funds with utility incentives will further bring down the upfront cost of the vehicle.

### **The Beneficiary Mitigation Plan Should Be Specific and Focused**

Electrification, particularly electrifying our school buses, is the greatest opportunity for using these funds to meet our renewable energy and clean transportation goals. The Beneficiary Mitigation Plan should be used to clearly state that priority so that school districts (or other transportation providers) can appropriately prepare for submitting proposals and bids.

For instance, the Montpelier School Board earlier this fall began considering how they might be able to use the VW Funds for electric school buses for their school. As part of that discussion, they saw that there may be an opportunity to work with the City of Montpelier to create a joint school & transit system, and use electric buses for the school and commuters. This is the kind of proposal that would be a creative and effective use of the VW funds, but takes time and preparation to put together.

If the state clearly lays out a plan to use the funds for electrification and prioritize electric school bus projects, entities like the Montpelier School Board can begin putting work into creating their proposals knowing that there will be a good opportunity for them to be eligible for the funds. Schools can include begin budget discussions and working with their third party fleet managers, both conversations that will take time and resources. If the state opts to leave the plan vague and unspecific, schools simply won't have the information they need to start investing those resources and those proposals would take longer, and come later in the settlement term.