



November 3, 2022

SUBMITTED ELECTRONICALLY

Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2022-51)
Room 5203
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

RE: Comments to Notice 2022-51 (Energy Community)

Dear Sir or Madam,

Kern County (California) is one of the highest crude-oil producing counties in the nation¹. According to the Bureau of Land Management (BLM)², 95 percent of all oil and gas drilling in California occurs in Kern. BLM estimates a \$1.35 billion economic benefit from oil and gas production on public lands. For the year 2022-23, six of our top ten property taxpayers were oil and gas companies accounting for over \$13.9 billion in assessed value³.

The Inflation Reduction Act of 2022 (IRA) offers clean-energy projects up to 10 percent in additional financial incentives if the projects are sited within an “energy community.” The IRA defines an “energy community” as a metropolitan or non-metropolitan statistical area where 0.17 percent or greater direct employment or at least 25 percent of local tax revenues are related to the extraction, processing, transport, or storage of coal, oil, or natural gas and unemployment is at or above the national average in the previous year.

Despite Kern’s robust economic figures, which suggest that Kern is very much an “energy community,” the qualifying parameters outlined in the IRA’s definition prevent even a jurisdiction like Kern from knowing with certainty if we meet the criteria. The IRA definition does not state, with specificity, which local taxes should be included in the 25 percent calculation (property tax, sales tax, use tax, taxes collected by other jurisdictions such as schools, special districts, municipalities?). Furthermore, the unemployment requirement creates confusion and uncertainty as unemployment rates change frequently, and it is not abundantly clear whether an “energy community”, once designated, will remain so and continue to be eligible for the 10 percent financial incentive if its unemployment rate falls below the national average.

We urge the Department of the Treasury and the Internal Revenue Service to provide clarifying guidance regarding the IRA definition of “energy community” in the following ways:

- Rather than use vague metropolitan or non-metropolitan statistical areas, simplify the geography by analyzing qualifying metrics at the county level.

¹ https://www.nmoga.org/lea_advances_to_nation_s_no_2_county_in_oil_production

² <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about/california>

³ <https://www.kcttc.co.kern.ca.us/forms/topten.pdf>

- Allow counties to qualify as “energy communities” based on either the .17 percent employment or 25 percent of local tax revenue or above average unemployment rate (use employment data available from the Bureau of Labor Statistics). Poverty rate could also be a determining criterion (using US Census Bureau data).
- Absent the availability of consistent public data for the various types of taxes, this guidance should completely remove that requirement and simply define “energy communities” based on the actual amount of oil/gas/coal produced by each county. IRS/Treasury could use data already collected by the Energy Information Administration (EIA) and/or Economic Development Administration to make its determination.
- Once IRS/Treasury settles on a final set of criteria, the agencies should identify a “shortlist” of energy communities and provide official correspondence to acknowledge which counties and municipalities qualify, and make that designation *ongoing*, so companies looking to invest in clean-energy projects in transitioning energy communities have the confidence and assurance from the federal government that they can qualify for the additional 10 percent financial incentives/tax credits.

We appreciate your time and consideration of these proposed alternatives in defining “energy community” in the IRA.

Sincerely,



Thomas Brown
Chief Legislative & Intergovernmental Affairs Officer
Kern County Administrative Office

cc: National Association of Counties
Carpi & Clay