



September 12, 2018

Texas Commission on Environmental Quality
Air Quality Division
Implementation Grants Section, MC-204
P.O. Box 13087
Austin, Texas 78711-3087

ATTN: Volkswagen Settlement

RE: Comments on TCEQ Draft Volkswagen Environmental Mitigation Trust Beneficiary Mitigation Plan for Texas

On behalf of more than 1,000 businesses spanning an eleven-county region represented by the Greater Houston Partnership, we are writing to urge TCEQ to revise the Volkswagen Environmental Mitigation Trust Draft Beneficiary Mitigation Plan for Texas to allow for a more fair and equitable distribution of funds. Under the current draft plan, the allocation to the Houston region falls short of a fair and equitable distribution of the Trust funds based on the size of the region, the number of subject vehicles registered in the region, and the region's disproportionate share of air pollution within the Beneficiary jurisdiction.

While we understand TCEQ's perspective in focusing the draft plan on near non-attainment areas in the hopes of keeping those regions within federal standards, prioritizing regions in such a manner essentially writes off non-attainment areas as a lost cause. Simply because the Houston area faces greater challenges in mitigating its air quality is not a reason to deny the region its equitable share of funds. It is because of those challenges that Houston should receive a larger portion of the funds than is represented in the current draft plan, thus allowing our cities and counties a true opportunity to mitigate the impacts of the Volkswagen subject vehicles and reduce our NOx emissions.

The overarching goal of the Volkswagen Environmental Mitigation Trust is to "fully mitigate the total, lifetime excess NOx emission from the vehicles at issue in the lawsuit."¹ Just as the Trust funding was allocated to Beneficiaries based on the number of subject vehicles within the beneficiary boundaries, so should the allocation within the state be focused on actions to reduce emissions of NOx where the subject vehicles "were, are, or will be operated."²

Additionally, the Trust agreement states Beneficiary Mitigation Plans must address "a description of how the Beneficiary will consider the potential impact of the selected Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden within its jurisdiction..."³ By

¹ *In re: Volkswagen "Clean Diesel" Marketing, Sales, Practices, and Products Liability Litigation*, MDL No. 2762 CRB (JSC) (N.D. Cal. July 19, 2017).

² *Id.*

³ *Id.* Pursuant to the Partial Consent Decree, the Beneficiary Mitigation Plan shall address, among other items, "... (iii) a description of how the Beneficiary will consider the potential beneficial impact of the selected Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden within its jurisdiction..."



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minimizing the allocation amounts to the areas, such as the Houston region, which bear a disproportionate burden of the air pollution in Texas, the plan is not in alignment with the stated intent of the settlement. The small amount of funding provided to the Houston region will do little to mitigate or reduce NOx emissions across the eight non-attainment counties in the region. While we recognize the importance of keeping the near non-attainment areas of Texas within the federal standards, it is just as important to ensure our non-attainment areas do not worsen and move into the severe status, thus incurring more penalties, fines, and costs to our businesses, cities, counties, and state.

A fair and equitable distribution can serve both goals, by providing funding to both cities which are near non-attainment, and our largest metropolitan regions which are solidly in non-attainment status. The allocations to the priority areas in the draft plan should be reconsidered to base funding off the number of vehicles registered in the areas and those areas with the most opportunity to reduce emissions due to bearing the disproportionate share of pollution. Therefore, we urge the TCEQ to reconsider the allocation of funds and provide Houston with its fair and equitable portion of the Trust funds to fully mitigate the excess NOx emissions from subject vehicles in the lawsuit.

Thank you for your consideration.

Sincerely,

Marc Watts
Chairman
Greater Houston Partnership

Bob Harvey
President and CEO
Greater Houston Partnership

Cc: Commissioner Jon Niermann
Commissioner Emily Lindley
Toby Baker, Executive Director, TCEQ
David Brymer, Director, Air Quality Division, TCEQ