



## **BORRIS L. MILES**

STATE SENATOR • DISTRICT 13

COMMITTEES: AGRICULTURE, WATER, & RURAL AFFAIRS • HEALTH & HUMAN SERVICES • NATURAL RESOURCES & ECONOMIC DEVELOPMENT • NOMINATIONS

September 19, 2018

Jon Niermann  
Chairman, Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, TX 78753

Dear Chairman Niermann,

I would like to add my voice to the growing chorus of public officials and community leaders opposed to the Texas Commission on Environmental Quality's proposed allocation of settlement dollars related to the Volkswagen (VW) emissions scandal.

I have represented central Houston in the Legislature for the past decade. In repeated meetings with you and your staff, we have discussed the challenges in addressing the threat of air pollution to my constituents and the Houston region. It's unfortunate that, too often, my call to combat this significant health threat has fallen on deaf ears. TCEQ's proposed Beneficiary Mitigation Plan is just one more case in point.

Consider the facts: the American Lung Association lists Houston as the 11th most polluted city for ozone levels in the nation and most polluted in Texas. A report found that a recent increase in ozone levels in Houston over three days resulted in a 4 percent increase in cardiac arrests and a 5 percent increase in asthma attacks.

Last year, a Rice University study of Houston students found that "African American children comprised the largest percentage of ambulance-treated asthma cases: 72 percent for elementary school students, 81 percent for middle schoolers and 79 percent for high schoolers. Hispanic children comprised 23 percent (elementary), 15 percent (middle) and 15 percent (high school)." These cases, which Rice estimated to cost millions of dollars in unnecessary health care costs, were "preventable" and due in part to "high ozone or nitrogen dioxide levels in the atmosphere."

The VW settlement offers a very real opportunity for the Houston region to make positive steps to address these severe problems which threaten lives, quality of life and economic well-being -- not to mention possible sanctions under the federal Clean Air Act. Among other goals, these dollars are key to encouraging the development and use of cleaner, more efficient fuels.

**CAPITOL OFFICE:**  
P.O. Box 12068  
AUSTIN, TEXAS 78711  
(512) 463-0113  
FAX: (512) 463-0006  
DIAL 711 FOR RELAY CALLS

**CENTRAL HOUSTON OFFICE:**  
5302 ALMEDA ROAD, SUITE A  
HOUSTON, TEXAS 77004  
(713) 665-8322  
FAX: (713) 665-0009

**NORTHEAST OFFICE:**  
3300 LYONS AVENUE, SUITE 301  
HOUSTON, TEXAS 77020  
(713) 223-0387  
FAX: (713) 223-0524

**FORT BEND OFFICE:**  
2440 TEXAS PARKWAY, SUITE 110  
MISSOURI CITY, TEXAS 77489  
(281) 261-2360  
FAX: (281) 261-4726

[borris.miles@senate.texas.gov](mailto:borris.miles@senate.texas.gov)

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Chairman Niermann

Your agency's Plan states that, "a primary purpose of the [Environmental Mitigation Trust Agreement for State Beneficiaries] is to mitigate NOX emissions especially in regards to impacted communities." The Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller County area has been in nonattainment status since 2004.

Sadly, TCEQ's proposed allocation for settlement funds that could aid in reducing these dangerous ozone gases is not even proportionate to the number of VW vehicles in the Houston area equipped with the illegal emissions defeat devices. If TCEQ's funding were merely proportionate, the area I serve would receive over \$22.7 million more than proposed, or nearly twice as much as your Beneficiary Mitigation Plan sets out.

Not surprisingly, Houston-area Democrats, Republicans, community leaders and corporations are unifying in their condemnation of TCEQ's Plan.

Frankly Mr. Chairman, as leader of the primary state agency charged with safeguarding the environment, and subsequently the health and safety of Texans, your decision shows a severe lack of judgment at best. At worst, your Plan may be perceived as intentionally biased and discriminatory.

Accordingly, I'm requesting you provide answers to the following questions related to the VW proposal:

- 1) Please provide an explanation of the methodology and agency approach in determining a proposed allocation that would provide the Houston area with only 13 percent of VW settlement funds when 24 percent of the affected vehicles are registered there.
- 2) Please provide a summary of allocation decisions over the past decade stemming from settlements involving TCEQ. Please include a breakdown of the settlement funds by city/area as well as an approximate breakdown of the proportion of the affected industry by city/area.

Thank you in advance for your prompt response to this request. Your answers will be critical to informing comments to your agency before the October 8 deadline and will affect my decisions in the coming legislative session.



Borris L. Miles  
Senator, District 13

cc: Mayor Sylvester Turner, Judge Ed Emmett, Marc Watts, Bob Harvey, Rep. Ed Thompson