

May 12, 2016

Ms. Patti Smith, General Manager
Jenelle Shriner, Acting News Director
KVUE-TV

Dear Ms. Smith and Ms. Shriner:

We watched with interest your segment, *Inspecting the Inspectors: Redirecting Funds*, on the 6 p.m. newscast on May 9th but found it misleading and factually inaccurate in several respects. These errors are particularly unfortunate and surprising given our written response to your questions, provided nearly a month prior to your broadcast, and our offer for an interview with program staff. These errors include:

- Mr. Pierrotti did not correctly report how the Low Income Vehicle Repair, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP) fees are collected and allocated. This funding is appropriated at the sole discretion of the Texas Legislature and **has not been redirected to other programs at TCEQ nor to the general fund.**

As we said on April 12th in our written response to KVUE's inquiry:

"The revenue collected for the LIRAP from vehicle inspection fees is deposited into the state's Clean Air Account by the Texas Comptroller of Public Accounts. The Texas Legislature has sole discretion to appropriate funds from the Clean Air Account to the Texas Commission on Environmental Quality for the LIRAP's AirCheckTexas Drive a Clean Machine (DACM) program regardless of the fund balance in the account.

The collection of fees is required by Texas Health and Safety Code, Section 382.209 (b) to fund the LIRAP. These fees are also used to fund the county-implemented Local Initiative Projects as specified in Texas Health and Safety Code, Section 382.220." Simply put, the amount of funding available is the amount the legislature appropriates to the program. That amount is different from, and typically significantly less than, the balance in the Clean Air Fund.

However, the TCEQ spends everything allocated by the legislature from the Clean Air Fund for programs designed to improve air quality including LIRAP and DACM, as well as county initiatives. We sent KVUE the amounts spent on DACM and the amounts collected for LIRAP because that was what was requested. The reporter incorrectly extrapolated that the DACM amounts were all that was spent.

- Mr. Pierrotti conflated and failed to accurately report the difference between automobile safety inspections, administered by the Department of Public Safety, and emissions testing of vehicles, administered by the TCEQ.
- Lastly, the TCEQ did not prohibit your reporter from attending or covering a public meeting of the commission. TCEQ provided an opportunity for your reporter to interview our experts on the LIRAP by phone and scheduled that interview well before the public meeting took place. Mr. Huey flatly refused to conduct a phone interview, and Mr. Pierrotti did not call in to the scheduled phone interview either. Rather, he opted to arrive at a regularly scheduled commission meeting, dealing with matters completely unrelated to LIRAP, and

interview one of the commissioners at the conclusion of the meeting in somewhat of an “ambush” style. This approach does not result in an informed, meaningful interview, and TCEQ accordingly declined to answer questions in this setting.

As a result, watching this segment leaves viewers with a mistaken impression about the goals of LIRAP and the process for expenditure of LIRAP funds. LIRAP is designed to assist low-income drivers in certain areas of the state with repairs to or replacement of vehicles that fail an **emissions test** to correct causes of excess emissions.

As to Mr. Clemons, the viewers do not know if his truck failed an emissions test, nor do they know if he qualifies for, or applied for, assistance through the LIRAP.

Another point of interest not mentioned in the story is that the City of Austin, and its voters, opted into the LIRAP as part of an Early Action Compact to take action to **improve air quality**-- something that in his zeal to focus on safety inspections, the reporter overlooked.

We do hope that greater care will be taken with the facts in the future as I'm sure you share TCEQ's desire for your viewers to have accurate information.

Sincerely,

Terry Clawson
Division Director
TCEQ Agency Communications Division