



September 7, 2018

ATTN: VW Settlement  
Texas Commission on Environmental Quality (TCEQ)  
Air Quality Division Implementation Grants Section, MC-204  
P.O. Box 13087  
Austin, TX 78711-3087

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

The Capital Area Metropolitan Planning Organization (CAMPO) appreciates this opportunity to comment on TCEQ’s draft VW beneficiary mitigation plan for Texas and appreciates TCEQ’s consideration of the comments submitted by the Capital Area Council of Governments (CAPCOG) and the Central Texas Clean Air Coalition (CAC) on this issue in the development of this draft plan. We also appreciate the difficult task TCEQ has of developing and carrying out a mitigation plan that best advances the purpose of the mitigation trust to, “mitigate the total lifetime excess NO<sub>x</sub> emissions” from the affected VW vehicles where they, “were, are or will be operated.” While we appreciate TCEQ’s proposal to make up to \$31.4 million for light-duty electric vehicle charging equipment available statewide, we believe that the state cannot meet the goals of the mitigation trust without some portion of the \$170 million proposed for vehicle replacement grants being available to the six counties in the CAMPO region: Bastrop, Burnet, Caldwell, Hays, Travis, and Williamson Counties.

In the draft mitigation plan, TCEQ states, “Those communities most impacted are those that likely had additional emissions from vehicles under the consent decree that are measuring levels at or above the National Ambient Air Quality Standard for ozone.” The affected vehicles included model years 2009 – 2016, which means that the excess NO<sub>x</sub> emissions from these vehicles dates back to fall of 2008 when the model year 2009 vehicles were beginning to be sold. Since 2019 (through August 15, 2018), the CAMPO region experienced 90 days with O<sub>3</sub> levels above the level of the 2015 O<sub>3</sub> NAAQS (70 ppb), including four days when O<sub>3</sub> were high enough to be considered “unhealthy” for everyone. The region’s O<sub>3</sub> design value was above 70 ppb up through 2013, and in 2018 already, the fourth-highest daily 8-hour O<sub>3</sub> maximum average at a regulatory monitor is 72 ppb, putting the region at significant risk for having a 2017-2019 O<sub>3</sub> levels that violate the NAAQS. In a statement to the press, TCEQ stated that, “With a 2015-2017 design value of 69 ppb, no metro planning area in the state has a design value closer to the 2015 O<sub>3</sub> NAAQS.” A statement released by TCEQ to the press on August 9, 2018, suggests that the proximity of the CAMPO region’s O<sub>3</sub> levels to the 2015 O<sub>3</sub> NAAQS would tend to mean that the region would be able to benefit more than any other area of the state from these funds: “In deciding to allocate funds, those areas measuring ozone levels closest to the National Ambient Air Quality Standards are most likely to see the greatest benefit by an initial and significant effort to either attain the NAAQS or remain in attainment of the NAAQS.”



Of the 40,444 affected vehicles in Texas, 5,189 (12.83%) were located within the CAMPO region. The CAMPO region has the highest number of affected vehicles per capita (2.40 vehicles per 1,000 residents) of any metro area in the state. This ratio is substantially higher than the total for the 28 counties that TCEQ has proposed as priority areas for this funding (1.38 vehicles per 1,000 residents), and every county in the CAMPO region has a ratio that exceeds the total for those 28 counties. This disproportionate impact of the affected vehicles on ambient air pollution levels within the region dating back to 2009 has not been accounted for in the proposed allocation of funding, and we strongly encourage you to do so.

In considering how to proceed with this mitigation plan, we urge the TCEQ to keep in mind that the purpose of this mitigation funding is to mitigate harm to public health that has already been done as a result of VW's actions, not simply to "address air quality issues in the state." We note that there are other sources of funding available to TCEQ to do that, including the \$1.7 billion fund balance in the Texas Emission Reduction Plan (TERP) account and the \$200 million fund balance in the Clean Air Account. We also note that Texas's own \$209 million allocation from the settlement is 7% of the total, corresponds to 7% of the affected vehicles were located in Texas. We believe that it would be much more consistent with the intent of this mitigation trust to include the CAMPO region among the eligible areas than to exclude it.

Thank you for your consideration.

Sincerely,



Will Conley  
CAMPO Policy Board Chairman

Cc: Luis Saenz,  
Office of the Texas Governor, The Honorable Greg Abbot