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DISTRICT 14

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September 25, 2018

Commissioner Jon Niermann
Texas Commission on Environmental Quality
P.O. Box 13087
MC 100
Austin, Texas 78711

Re: Inclusion of City of Austin and Surrounding Area in Volkswagen Settlement

Dear Commissioner Niermann,

I am concerned by the exclusion of Austin and its surrounding metro area from the Volkswagen settlement for Texas. While all areas of the state will be eligible to compete for \$31.35 million for electric charging infrastructure, TCEQ is proposing that only five areas of the state (Dallas-Fort Worth, Houston, San Antonio, El Paso, and Beaumont - Port Arthur) will be eligible for \$169.29 million in funding for vehicle replacement.

Austin's exclusion would mean that the allocation of funding does not conform to the purpose of the fund. As I am sure that you are aware, the stated purpose of the Volkswagen mitigation fund is to "fully mitigate the total lifeline excess NOx emissions through environmental mitigation projects that reduce NOx emissions in places *where VW diesel engine cars were, are, or will be operated*" (emphasis added).

Of the 40,444 affected vehicles in Texas, over 5,000 were registered in the greater Austin area. This figure translates to 2.39 affected vehicles per 1,000 people in the five-county Austin Round Rock metro area—a larger number than in eligible counties in the Dallas-Fort Worth area (1.37 vehicles per 1,000 people); the Houston area (1.36 vehicles per 1,000 people); the El Paso area

(1.07 vehicles per 1,000 people): the Beaumont-Port Arthur area (0.89 vehicles per 1,000 people); and the San Antonio area (1.63 vehicles per 1,000 people).

The most appropriate and equitable solution is to allocate funding to regions on the basis of how many affected vehicles were used. This method better aligns with the purpose of the fund and conforms with the overall share that the state received from the settlement, which was originally calculated by the number of affected vehicles registered within its boundaries.

It should also be noted that TCEQ's reasoning in its fund allocation, which prioritizes areas that are likely to see the greatest benefit by an initial or significant effort to attain National Ambient Air Quality Standards (NAAQS) or to remain in attainment ozone for NAAQS, fails to recognize the significant risk that the Austin-Round Rock area faces in falling short of 2015 Ozone Standards by the end of 2019. Moreover, Austin's ozone levels are currently higher than one of the five areas proposed for funding (Beaumont-Port Arthur).

I appreciate your consideration and thank you for your service.

Sincerely yours,

A handwritten signature in black ink that reads "Kirk Watson". The signature is written in a cursive style with a large initial "K".

Kirk Watson
State Senator

CC:

Luis Saenz
Chief of Staff, Office of the Governor of Texas