

October 3, 2018

Gretchen Arnold
Chair, Corpus Christi Air Quality Group
121 Atlantic St.
Corpus Christi, TX. 78404

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

ATTN: VW Settlement

Re: Texas Commission on Environmental Quality Draft Volkswagen Environmental Mitigation Trust (August 8, 2018)

Dear Texas Commission on Environmental Quality VW Settlement Staff:

My name is Gretchen Arnold, and I am Chair of the Corpus Christi Air Quality Committee. I am providing public comment on the Texas Commission on Environmental Quality (TCEQ) draft Volkswagen (VW) Environmental Mitigation Trust, dated August 8, 2018.

The TCEQ draft VW Environmental Mitigation Trust does not comply with the court-ordered directive stated in the VW settlement. The court ordered directive that stipulates how and where funds are to be distributed is very clear. The following text is an excerpt from the VW judgement; Section II; Background, Page 2 line 27 and Page 3, lines 1-3: *“The Trust’s funds are intended to fully mitigate the total lifetime excess NOx emissions through environmental mitigation projects that reduce NOx emissions (“Eligible Mitigation Actions” as set forth in Appendix D-2 of the Partial Consent Decree) in places where Defendants’ TDI diesel engine cars were, are, or will be operated.”* This is the entirety of the judgment language. There are no other funding award factors stated to be considered. Nowhere in the settlement directive does it state that an area’s overall air quality; regardless of the emitter, should be a consideration for VW settlement funding.

The TCEQ draft VW Environmental Mitigation Trust ignores the EPA judgement data quantifying the number of violating VWs per county that dictated how much settlement funding each state should receive. (Please see attachment). TCEQ has instead made up their own rules. Texas counties that are in attainment of NAAQS for ozone are ineligible for the majority of VW settlement funding and Texas counties that are non-compliant with NAAQS for ozone are eligible for VW settlement funding. The number of VWs that have in the past, currently, or will operate in a county has no bearing in TCEQ’s evaluation for funding eligibility.

The following table provides a comparison of violating VWs in various counties throughout Texas. The blue highlighted section of the table was created by TCEQ to communicate which Texas counties would be eligible for the majority (80+%) of VW settlement funding (page 12 of the draft mitigation plan). The red highlighted section of the table provides additional information that TCEQ has chosen to ignore in their mitigation plan; the number of violating VWs in Texas counties.

Areas	Counties	Maximum Funding Amount	Percentage of Total Funds	EPA Judged Violating VWs per 1,000 population	Eligible for Majority of VW Settlement Funding
San Antonio	Bexar, Comal, Guadalupe, Wilson	\$73,554,754	35.14%	0.41	Yes
Dallas – Ft. Worth	Colin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Tarrant, Wise	\$29,116,296	13.91%	1.37	Yes
Houston – Galveston – Brazoria	Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, Waller	\$27,399,879	13.09%	1.34	Yes
El Paso	El Paso	\$26,771,921	12.79%	1.07	Yes
Beaumont – Port Arthur	Hardin, Jefferson, Orange	\$12,705,673	6.07%	0.89	Yes
Totals		\$169,548,523	81%		
Corpus Christi	Nueces San Patricio	\$0.00 \$0.00	0.0% 0.0%	1.51 2.01	No

In addition to Nueces and San Patricio counties, 86 Texas counties have an average of more than 1.4 violating VWs per 1,000 population, (a higher average than any of the counties deemed eligible to receive VW settlement funding) but have been denied eligibility for VW settlement funding. (please see attachment).

TCEQ must honor the directive in the VW settlement judgement and allow counties that have been adversely affected by violating VWs to be fully eligible for VW settlement.

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BRUCE S. GELBER; United States Department of Justice, Deputy Assistant Attorney General Environment and Natural Resources Division

Attachment

Violating VWs per 1,000 population in Texas (*)			
County	Total Vehicles	2017 Population	Vehicles per 1,000 persons
Anderson County, Texas	58	57,741	1.00
Andrews County, Texas	18	17,722	1.02
Angelina County, Texas	52	87,805	0.59
Aransas County, Texas	77	25,572	3.01
Archer County, Texas	16	8,809	1.82
Armstrong County, Texas	4	1,879	2.13
Atascosa County, Texas	66	48,981	1.35
Austin County, Texas	93	29,786	3.12
Bailey County, Texas	2	7,077	0.28
Bandera County, Texas	87	22,351	3.89
Bastrop County, Texas	181	84,761	2.14
Baylor County, Texas	7	3,581	1.95
Bee County, Texas	49	32,563	1.50
Bell County, Texas	769	347,833	2.21
Bexar County, Texas	62	1,958,578	0.03
Blanco County, Texas	1	11,626	0.09
Borden County, Texas	28	673	41.60
Bosque County, Texas	90	18,326	4.91
Bowie County, Texas	543	94,012	5.78
Brazoria County, Texas	374	362,457	1.03
Brazos County, Texas	35	222,830	0.16

Brewster County, Texas	2,882	9,337	308.66
Briscoe County, Texas	6	1,528	3.93
Brooks County, Texas	5	7,235	0.69
Brown County, Texas	41	38,053	1.08
Burleson County, Texas	33	18,011	1.83
Burnet County, Texas	137	46,804	2.93
Caldwell County, Texas	65	42,338	1.54
Calhoun County, Texas	16	21,744	0.74
Callahan County, Texas	36	13,946	2.58
Cameron County, Texas	349	423,725	0.82
Camp County, Texas	10	12,855	0.78
Carson County, Texas	10	6,032	1.66
Cass County, Texas	35	30,012	1.17
Castro County, Texas	6	7,843	0.77
Chambers County, Texas	86	41,441	2.08
Cherokee County, Texas	57	52,240	1.09
Childress County, Texas	7	7,067	0.99
Clay County, Texas	19	10,421	1.82
Cochran County, Texas	2	2,851	0.70
Coke County, Texas	7	3,306	2.12
Coleman County, Texas	27	8,430	3.20
Collin County, Texas	1,657	969,603	1.71
Collingsworth County, Texas	2	2,987	0.67

Colorado County, Texas	37	21,232	1.74
Comal County, Texas	489	141,009	3.47
Comanche County, Texas	20	13,573	1.47
Concho County, Texas	2	2,717	0.74
Cooke County, Texas	77	39,895	1.93
Coryell County, Texas	156	74,913	2.08
Crane County, Texas	3	4,740	0.63
Crockett County, Texas	1	3,564	0.28
Crosby County, Texas	6	5,899	1.02
Culberson County, Texas	3	2,231	1.34
Dallam County, Texas	12	7,208	1.66
Dallas County, Texas	2,606	2,618,148	1.00
Dawson County, Texas	20	12,813	1.56
Deaf Smith County, Texas	12	18,836	0.64
Delta County, Texas	8	5,298	1.51
Denton County, Texas	1,443	836,210	1.73
DeWitt County, Texas	27	20,226	1.33
Dickens County, Texas	2	2,209	0.91
Dimmit County, Texas	11	10,418	1.06
Donley County, Texas	2	3,311	0.60
Duval County, Texas	8	11,273	0.71
Eastland County, Texas	36	18,411	1.96
Ector County, Texas	129	157,087	0.82

Edwards County, Texas	2	1,953	1.02
El Paso County, Texas	903	840,410	1.07
Ellis County, Texas	313	173,620	1.80
Erath County, Texas	59	41,969	1.41
Falls County, Texas	15	17,437	0.86
Fannin County, Texas	53	34,446	1.54
Fayette County, Texas	54	25,272	2.14
Fisher County, Texas	6	3,880	1.55
Floyd County, Texas	4	5,855	0.68
Foard County, Texas	1	1,222	0.82
Fort Bend County, Texas	992	764,828	1.30
Franklin County, Texas	8	10,767	0.74
Freestone County, Texas	34	19,625	1.73
Frio County, Texas	13	19,600	0.66
Gaines County, Texas	24	20,638	1.16
Galveston County, Texas	554	335,036	1.65
Garza County, Texas	5	6,528	0.77
Gillespie County, Texas	98	26,646	3.68
Goliad County, Texas	12	7,562	1.59
Gonzales County, Texas	25	20,893	1.20
Gray County, Texas	15	22,404	0.67
Grayson County, Texas	164	131,140	1.25
Gregg County, Texas	128	123,367	1.04

Grimes County, Texas	54	28,082	1.92
Guadalupe County, Texas	279	159,659	1.75
Hale County, Texas	22	34,134	0.64
Hall County, Texas	4	3,071	1.30
Hamilton County, Texas	19	8,422	2.26
Hansford County, Texas	3	5,447	0.55
Hardeman County, Texas	2	3,994	0.50
Hardin County, Texas	72	57,139	1.26
Harris County, Texas	5,506	4,652,980	1.18
Harrison County, Texas	77	66,661	1.16
Hartley County, Texas	5	5,691	0.88
Haskell County, Texas	10	5,746	1.74
Hays County, Texas	456	214,485	2.13
Hemphill County, Texas	10	4,024	2.49
Henderson County, Texas	127	81,064	1.57
Hidalgo County, Texas	609	860,661	0.71
Hill County, Texas	45	35,852	1.26
Hockley County, Texas	15	23,088	0.65
Hood County, Texas	121	58,273	2.08
Hopkins County, Texas	42	36,496	1.15
Houston County, Texas	21	23,021	0.91
Howard County, Texas	30	36,040	0.83
Hudspeth County, Texas	4	4,408	0.91

Hunt County, Texas	134	93,872	1.43
Hutchinson County, Texas	27	21,375	1.26
Irion County, Texas	3	1,516	1.98
Jack County, Texas	17	8,832	1.92
Jackson County, Texas	14	14,805	0.95
Jasper County, Texas	53	35,561	1.49
Jeff Davis County, Texas	5	2,280	2.19
Jefferson County, Texas	203	256,299	0.79
Jim Hogg County, Texas	1	5,202	0.19
Jim Wells County, Texas	76	40,871	1.86
Johnson County, Texas	254	167,301	1.52
Jones County, Texas	31	19,983	1.55
Karnes County, Texas	20	15,187	1.32
Kaufman County, Texas	203	122,883	1.65
Kendall County, Texas	210	44,026	4.77
Kerr County, Texas	122	51,720	2.36
Kimble County, Texas	4	4,410	0.91
Kinney County, Texas	7	3,745	1.87
Kleberg County, Texas	63	31,088	2.03
Knox County, Texas	5	3,710	1.35
Lamar County, Texas	40	49,587	0.81
Lamb County, Texas	18	13,210	1.36
Lampasas County, Texas	68	21,027	3.23

La Salle County, Texas	5	7,584	0.66
Lavaca County, Texas	34	20,062	1.69
Lee County, Texas	38	17,183	2.21
Leon County, Texas	50	17,243	2.90
Liberty County, Texas	123	83,658	1.47
Limestone County, Texas	34	23,527	1.45
Lipscomb County, Texas	5	3,378	1.48
Live Oak County, Texas	32	12,174	2.63
Llano County, Texas	43	21,210	2.03
Lubbock County, Texas	288	305,225	0.94
Lynn County, Texas	5	5,859	0.85
Madison County, Texas	15	14,222	1.05
Marion County, Texas	16	10,064	1.59
Mason County, Texas	9	4,222	2.13
Matagorda County, Texas	40	36,840	1.09
Maverick County, Texas	34	58,216	0.58
McCulloch County, Texas	15	7,957	1.89
McLennan County, Texas	259	251,259	1.03
McMullen County, Texas	1	778	1.29
Medina County, Texas	108	50,066	2.16
Menard County, Texas	2	2,124	0.94
Midland County, Texas	175	165,049	1.06
Milam County, Texas	52	25,053	2.08

Mills County, Texas	6	4,921	1.22
Mitchell County, Texas	9	8,468	1.06
Montague County, Texas	49	19,539	2.51
Montgomery County, Texas	1,461	570,934	2.56
Moore County, Texas	28	22,097	1.27
Morris County, Texas	10	12,467	0.80
Nacogdoches County, Texas	53	65,580	0.81
Navarro County, Texas	46	48,701	0.94
Newton County, Texas	5	13,952	0.36
Nolan County, Texas	25	14,770	1.69
Nueces County, Texas	545	361,221	1.51
Ochiltree County, Texas	5	10,073	0.50
Oldham County, Texas	6	2,114	2.84
Orange County, Texas	78	85,047	0.92
Palo Pinto County, Texas	43	28,570	1.51
Panola County, Texas	30	23,243	1.29
Parker County, Texas	406	133,463	3.04
Parmer County, Texas	6	9,842	0.61
Pecos County, Texas	18	15,634	1.15
Polk County, Texas	81	49,162	1.65
Potter County, Texas	91	120,458	0.76
Presidio County, Texas	9	7,156	1.26
Rains County, Texas	14	11,762	1.19

Randall County, Texas	205	134,442	1.52
Reagan County, Texas	5	3,710	1.35
Real County, Texas	5	3,429	1.46
Red River County, Texas	12	12,229	0.98
Reeves County, Texas	10	15,281	0.65
Refugio County, Texas	7	7,224	0.97
Roberts County, Texas	1	938	1.07
Robertson County, Texas	31	17,203	1.80
Rockwall County, Texas	192	96,788	1.98
Runnels County, Texas	19	10,266	1.85
Rusk County, Texas	53	52,833	1.00
Sabine County, Texas	16	10,461	1.53
San Augustine County, Texas	9	8,253	1.09
San Jacinto County, Texas	55	28,270	1.95
San Patricio County, Texas	135	67,215	2.01
San Saba County, Texas	4	5,959	0.67
Schleicher County, Texas	2	3,001	0.67
Scurry County, Texas	14	17,050	0.82
Shackelford County, Texas	5	3,328	1.50
Shelby County, Texas	19	25,513	0.74
Sherman County, Texas	2	3,067	0.65
Smith County, Texas	300	227,727	1.32
Somervell County, Texas	17	8,845	1.92

Starr County, Texas	47	64,454	0.73
Stephens County, Texas	15	9,337	1.61
Sterling County, Texas	2	1,295	1.54
Stonewall County, Texas	3	1,388	2.16
Sutton County, Texas	7	3,767	1.86
Swisher County, Texas	5	7,515	0.67
Tarrant County, Texas	2,656	2,054,475	1.29
Taylor County, Texas	305	136,290	2.24
Terry County, Texas	10	12,715	0.79
Throckmorton County, Texas	5	1,527	3.27
Titus County, Texas	25	32,904	0.76
Tom Green County, Texas	113	118,019	0.96
Travis County, Texas	3,155	1,226,698	2.57
Trinity County, Texas	15	14,667	1.02
Tyler County, Texas	18	21,539	0.84
Upshur County, Texas	47	41,281	1.14
Upton County, Texas	-	3,663	-
Uvalde County, Texas	68	27,132	2.51
Val Verde County, Texas	55	49,205	1.12
Van Zandt County, Texas	106	55,182	1.92
Victoria County, Texas	62	92,084	0.67
Walker County, Texas	96	72,245	1.33
Waller County, Texas	80	51,307	1.56
Ward County, Texas	9	11,472	0.78

Washington County, Texas	99	35,043	2.83
Webb County, Texas	258	274,794	0.94
Wharton County, Texas	44	41,968	1.05
Wheeler County, Texas	4	5,358	0.75
Wichita County, Texas	138	132,000	1.05
Wilbarger County, Texas	12	12,764	0.94
Willacy County, Texas	10	21,584	0.46
Williamson County, Texas	1,195	547,545	2.18
Wilson County, Texas	121	49,304	2.45
Winkler County, Texas	6	7,574	0.79
Wise County, Texas	176	66,181	2.66
Wood County, Texas	74	44,314	1.67
Yoakum County, Texas	12	8,568	1.40
Young County, Texas	30	17,979	1.67
Zapata County, Texas	20	14,322	1.40
Zavala County, Texas	6	11,948	0.50

(*) Source – United States Environmental Protection Agency calculations to determine level of funding based on exposure to violating VWs.