



# ARMANDO L. WALLE

STATE REPRESENTATIVE

HOUSE DISTRICT 140

October 8, 2018

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

Re: Texas Draft Beneficiary Mitigation Plan for Volkswagen Environmental Mitigation Trust

Dear Chairman Shaw:

Thanks for the opportunity to submit comments about the Draft Beneficiary Mitigation Plan for Texas for the Volkswagen Settlement funds. I write today because upon examination of the Draft Beneficiary Mitigation Plan for Texas ("draft plan"), I believe the draft plan's terms are unnecessarily unfavorable to the Houston area and require adjustments to better meet the goals of the settlement agreement.

With nearly \$170 million of the funds to be allocated to the five priority areas of Houston, San Antonio, Dallas, El Paso and Beaumont-Port Arthur, I was particularly concerned to see Houston and Dallas combined only slated to receive a maximum of a third of this allocation. Given that nearly half of the vehicles with illegal defeat devices in Texas were registered in the Houston and Dallas areas, this apportionment does not make sense, especially given first paragraph of the Purpose and Recitals section of the Environmental Mitigation Trust Agreement for State Beneficiaries ("Trust Agreement"), which reads (emphasis added):

*Whereas, the Defendants are required to establish this State Mitigation Trust and to fund it with funds to be used for environmental mitigation projects that reduce emissions of nitrogen oxides ("NOx") **where the Subject Vehicles were, are, or will be operated** ("Eligible Mitigation Actions"), and to pay for Trust Administration Costs as set forth in this State Trust Agreement.*

The Houston region had twice as many vehicles with the illegal defeat devices registered as San Antonio but is receiving less than half the funding San Antonio is under the draft plan. The Houston region had twelve times as many vehicles registered as El Paso, but El Paso is receiving almost as much as Houston under the draft plan. To best fulfill the goals of the Trust Agreement, the State of Texas should allocate the funds based on "where the Subject Vehicles were, are, or will be operated," which means a greater share would go to the Houston and Dallas than under the current draft plan.

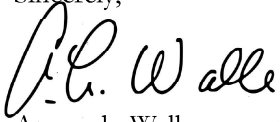
Additionally, I understand that the draft plan requires a 40 percent local match for local governments even though the Trust Agreement does not require any sort of local match for a public entity's project costs. Given that Hurricane Harvey hit the Houston region, among others, particularly hard, local government budgets have been stretched to their limit, many still waiting for appropriated federal dollars to finally provide relief for disaster expenditures. I ask for the local match requirement to be removed, or at the minimum, lowered, to help these Harvey-affected local governments.

I am also concerned that the draft plan proposes to award grants on both a competitive and "first come, first served" basis. Given the requirements of government procurement processes and procedures, "first come, first served" puts public entities at

a disadvantage versus others, plus competitive processes better ensure funds go to projects best able to meet the goals of the Trust Agreement. I suggest that the final award grants strictly on a competitive basis.

I look forward to working with the State and TCEQ on addressing these issues. Should you have any questions or concerns, please do not hesitate to contact me by phone at

Sincerely,

A handwritten signature in black ink that reads "Armando Walle". The signature is written in a cursive style with a large initial "A" and "W".

Armando Walle

State Representative, House District 140