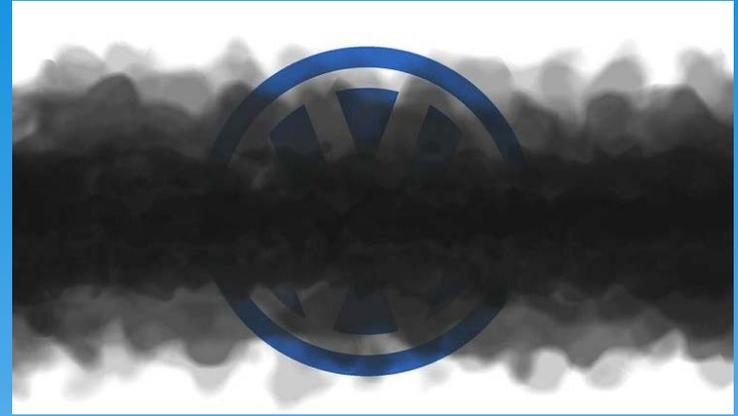


# The Role of Tribes in the VW Settlement

By Andy Bessler  
Project Director  
National Tribal Air Association

Presented to the DOE's Webinar:  
Opportunities for Tribes  
to Work Together  
October 25, 2017



# Role of Tribes in the VW Settlement

- \* Overview of the VW Settlement
- \* NTAA Involvement: Tribes helping Tribes
- \* NTAA VW Settlement Work Group
- \* Q&A



# The National Tribal Air Association

Founded in 2002 with a grant from the United States Environmental Protection Agency Office of Air and Radiation.

The mission of the NTAA is to advance air quality management policies and programs, consistent with the needs, interests, and unique legal status of American Indian Tribes and Alaska Natives.

124 Federally Recognized Tribes are members of NTAA



The NTAA Executive Committee and staff met in DC March of 2017



# News Headlines from the VW Settlement



September 18, 2015

EPA says VW diesels intentionally violate clean air standards

January 4, 2016

U.S. government sues Volkswagen over cheating on emissions tests

June 28, 2016

VW settles emissions-cheating cases for \$14.7 billion and agrees to buy back cars

February 1, 2017

VW agrees to pay U.S. owners of 3-liter diesels that cheat on emissions tests

March 20, 2017

Wilmington Trust will act as trustee in \$3 billion Volkswagen case

October 23, 2017

EPA announces VW diesel trust funds of \$3 billion

# Overview of the VW Settlement

The Environmental Mitigation Trust Agreement for Indian Tribe Beneficiaries was filed with the U.S. District Court of the Northern District of California on September 9, 2017 and a Trust Effective Date was filed on October 1, 2017.

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11  
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15  
16 IN RE: VOLKSWAGEN "CLEAN DIESEL" ) MDL No. 2672 CRB (JSC)  
MARKETING, SALES PRACTICES, AND )  
17 PRODUCTS LIABILITY LITIGATION ) **UNITED STATES' NOTICE OF AND**  
MEMORANDUM IN SUPPORT OF ITS )  
18 ) **UNOPPOSED MOTION FOR COURT**  
19 ) **APPROVAL OF FINALIZED TRUST**  
AGREEMENTS )

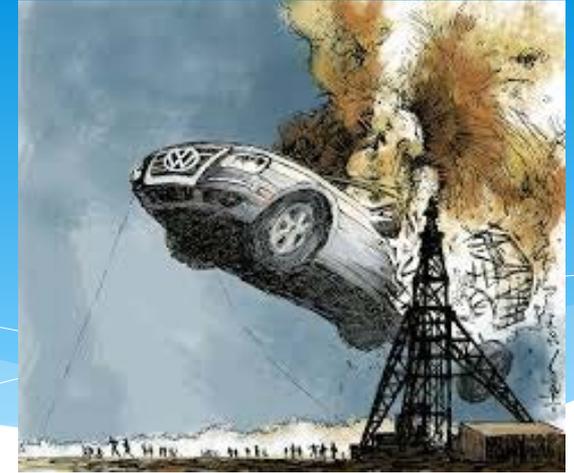
20 This Document Relates to: )

21 *United States v. Volkswagen AG et al.*, )  
Case No. 16-cv-295 (N.D. Cal.) )

) Date: To be determined  
) Time: To be determined  
) Courtroom 6, 17th Floor  
) The Honorable Charles R. Breyer  
)  
)

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28 UNITED STATES' UNOPPOSED MOTION FOR COURT  
APPROVAL OF FINALIZED TRUST AGREEMENTS  
MDL No. 2672 CRB (JSC)

# Overview of the VW Settlement



- \* On June 28, 2016, the United States lodged with the court a settlement with automakers Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC (collectively “Volkswagen”).
- \* The settlement partially resolves allegations that Volkswagen violated the Clean Air Act (“CAA”) by the sale of over 500,000 model year 2009 to 2015 motor vehicles containing 2.0 and 3.0 liter diesel engines equipped with “defeat devices.”
- \* The \$3 Billion Settlement includes a Tribal Allocation Subaccount of almost \$55 million for all 567 federally-recognized Tribes to fund trustee-approved Environmental Mitigation Actions (EMA’s).



# Eligible Mitigation Actions

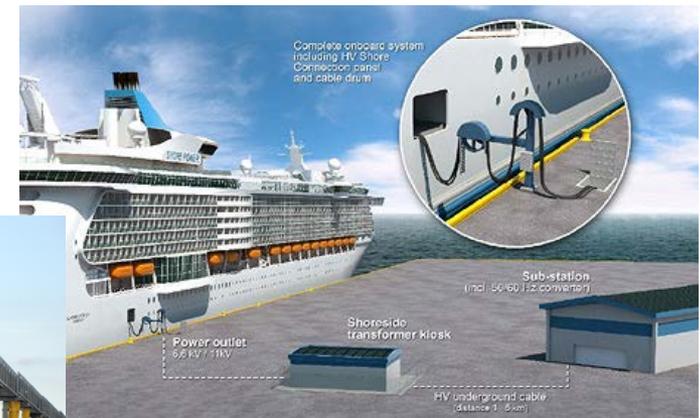
- \* Repower, replace engines, or new vehicles
  - \* Class 8 / Port Drayage Trucks
  - \* Class 4 – 8 School Buses, Transit Bus
  - \* Ferries, Tugs
  - \* Ocean Going Vessels
  - \* Class 4 – 7 Local Freight Trucks
  - \* Forklifts
- \* DERA Option





# Zero Emission Vehicle (ZEV) Investments

- \* 15% of EMAs may include funding for ZEV infrastructure.



# Wilmington Trust, N.A.: The VW Settlement Trustee



- \* 44 states and the U.S. DOJ recommended that the Wilmington Trust serve as the VW Settlement Trustee for states and Tribes to administer the historic settlement and ensure fair access to all.
- \* NTAA and the TAMS SC provided comments to DOJ with trustee recommendations.
- \* Russel Crane at Wilmington Trust, N.A. is the main contact. They are hosting a webinar tomorrow at 3 pm ET. Email him for more information: [rcraine@wilmingtontrust.com](mailto:rcraine@wilmingtontrust.com)
- \* Website to go live next month:  
[www.vwenvironmentalmitigationtrust.com](http://www.vwenvironmentalmitigationtrust.com)



# The NTAA

## VW Settlement Work Group



- \* The NTAA Executive Committee (EC) formed a Tribal Work Group to address VW settlement. Carolyn Kelly from the Quinault Indian Tribe is the NTAA lead.
- \* The NTAA VW Settlement Work Group holds regular monthly calls to update interested Tribes about the progress of the VW Settlement and includes over 100 members. Next call is on Thursday, November 2<sup>nd</sup> at 2pm ET.
- \* The NTAA VW Settlement Work Group provided regular communication with the U.S. DOJ and U.S. EPA regarding the settlement.



# Advocacy by Tribes for Tribes

- \* June, 2016 letter to EPA urging Tribal funding in any future settlement
- \* August, 2016 letter on recommendations to settlement
- \* Sept., 2016 letter to DOJ on information request
- \* Tribal consultation calls in August, 2016
- \* Nov., 2016 letter on Trustee Selection
- \* Dec., 2016 letter on DERA Match concerns
- \* Feb., 2017 letter to DOJ on final trustee selection



June 7, 2016

Gina McCarthy  
Administrator  
Environmental Protection Agency  
Mail Code 1101A  
1200 Pennsylvania Avenue, N.W.  
Washington DC 20460

**Subject: NTAA Recommendations for the Distribution of Funds for Environmental Mitigation and Supplemental Environmental Projects Related to Alleged Volkswagen Violations**

Honorable Administrator McCarthy:

We are writing on behalf of the National Tribal Air Association's (NTAA) Executive Committee and the Tribal Air Monitoring Support (TAMS) Center Steering Committee in support of the recommendations made by the National Association of Clean Air Agencies (NACAA) regarding potential distribution of funds for environmental mitigation related to the alleged Volkswagen violations of the Clean Air Act.

NTAA and TAMS have learned that, according to researchers at the Massachusetts Institute of



# VW Settlement Next Steps



- \* Trustee will post on a public website all documentation necessary to sign up as a beneficiary and submit Environmental Mitigation Action Plans.  
[www.vwenvironmentalmitigationtrust.com](http://www.vwenvironmentalmitigationtrust.com)
- \* Tribes will be able to sign up for funding on a yearly calendar.
- \* ITEP is funded through the settlement to provide Tribes with technical assistance for Tribes and to establish a Tribal Advisory Council.
- \* First round of funding closes for Tribes on January 2, 2018.
- \* Tribes can apply for funding based on annual cycle around September 1<sup>st</sup> until 2023.

# NTAA Next Steps

- \* Providing resources for Tribes
- \* Fostering partnerships with states
- \* Monthly NTAA VW Settlement Work Group Calls. Next call is on Thursday, November 2 at 2 pm ET time.
- \* ITEP will provide one-on-one support, training videos and informational webinars.
- \* Join us!



# Thank you for your attention!



Questions?  
Comments?  
Concerns?



More information on the VW Settlement can be found on  
[www.ntaatribalair.org](http://www.ntaatribalair.org)

Contact NTAA at 928-523-0526 or [andy.bessler@nau.edu](mailto:andy.bessler@nau.edu)