

IN THE SUPREME COURT OF THE STATE OF MONTANA
Case No. OP 20-0171

VOLKSWAGEN AKTIENGESELLSCHAFT D/B/A VOLKSWAGEN GROUP
AND/OR VOLKSWAGEN AG, AUDI AG, VOLKSWAGEN GROUP OF
AMERICA, INC., VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA
OPERATIONS, LLC, AUDI OF AMERICA, LLC, DR. ING H.C. F. PORSCHE
D/B/A PORSCHE AG, AND PORSCHE CARS NORTH AMERICA, INC.,
Plaintiffs and Appellees,

v.

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK
COUNTY, THE HONORABLE JAMES P. REYNOLDS, DISTRICT JUDGE,
Respondent.

Original Proceeding Arising from *Montana Department of Environmental Quality*
v. *Volkswagen Aktiengesellschaft, et al.*, Cause No. DDV-2016-1045
Montana First Judicial District, Lewis and Clark County
Hon. James. P. Reynolds, District Judge

**RESPONDENT MONTANA DEPARTMENT OF ENVIRONMENTAL
QUALITY'S NOTICE OF SUPPLEMENTAL AUTHORITY**

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Respondent Montana Department of Environmental Quality hereby files this Notice of Supplemental Authority pursuant to M. R. App. 12(6). The reason for this supplement is that on June 1, 2020, the Ninth Circuit Federal Court of Appeals issued *Salt Lake Cty. v. Volkswagen Grp. of Am., Inc.* (In re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.), No. 18-15937, 2020 U.S. App. LEXIS 17198 (9th Cir. 6/1/2020) (“Salt Lake Cty”). That decision reversed the *Counties* court’s decision, *In re Volkswagen Clean Diesel*, 310 F.Supp. 3d 1030 (N.D. Ca 2018), that dismissed claims similar to the Department’s second claim for post-sale tampering. The *Counties* decision was cited by VW’s Petition at 4, 5, 8, 11, 12, and 14. It was also cited by the Department in its Response at 9, 10, 11, 12, 13, 14, 15, and 26, and in its Response to VW’s Reply at 2.

Wherefore, the Department respectfully files this Notice of Supplemental Authority.

DATED this 5th day of June, 2020.

MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

/s/ Norman J. Mullen
Norman J. Mullen
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Montana Department of Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that I have filed a true and accurate copy of the foregoing with the Clerk of the Montana Supreme Court, and that I have served true and accurate copies of the foregoing upon each attorney of record in the above referenced District Court action, as follows:

By E-service

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I, Norman J. Mullen, hereby certify that I have served true and accurate copies of the foregoing Notice - Supplemental Authority to the following on 06-05-2020:

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Electronically signed by Sandy Moisey Scherer on behalf of Norman J. Mullen
Dated: 06-05-2020