The Volkswagen Diesel Emissions Environmental Mitigation Trust

for Indian Tribe Beneficiaries

Notice and Court Order Pursuant To Subparagraph 5.2.16 and 5.0.5.2.3 of The Indian Tribe Trust Regarding Approval of Funding Requests and Allocation

In accordance with the Volkswagen Diesel Emissions Environmental Mitigation Trust for Indian Tribe Beneficiaries ("the Indian Tribe Trust"), the Trustee has received Funding Requests from 27 of the Federally-Recognized Indian Tribes that qualified as Designated Beneficiaries of the Indian Tribe Trust by the deadline for the first funding cycle which was January 2, 2018.

Pursuant to the terms of the Indian Tribe Trust, the Trustee, Wilmington Trust, N.A., is required to post its approval of, request for modification or for more information, or denial of the funding requests for the first funding cycle on the Indian Tribe Trust's public-facing website on Monday, March 5, 2018 in accordance with subparagraphs 5.2.16 or 5.0.5.2.3 of the Indian Tribe Trust.

In compliance with the attached Order of the Court dated March 2, 2018 (the "Order") attached hereto, the Trustee will not be publishing any notice, with respect to the above paragraph, at this time on the public-facing website at www.vwenvironmentalmitigationtrust.com.

Instead, the Trustee shall be consulting with the United States, the Parties to the Indian Tribe Trust, the Department of Justice and the Environmental Protection Agency in furtherance of establishing a schedule for the consultation process described in the Order.

The Trustee will share the details of that schedule and process as soon as they are available.

Any questions regarding this Notice and the Order should be jointly addressed in writing to the following:

Volkswagen Diesel Emissions Environmental Mitigation Trust for Indian Tribe Beneficiaries c/o Wilmington Trust, N.A. as Trustee Wilmington Trust, National Association Rodney Square North 1100 North Market Street Attn: Capital Markets & Agency Services

Wilmington, DE 19890 Facsimile: 302 636-4145

Director, Air Enforcement Division U.S. Environmental Protection Agency 1200 Pennsylvania Avenue NW William J. Clinton South Building MC 2242A Washington, DC 20460

E-mail: VW_settlement@epa.gov

U.S. Department of Justice:

Chief, Environmental Enforcement Section

Re: DJ # 90-5-2-1-11386

Environment and Natural Resources Division

U.S. Department of Justice

P.O. Box 7611

Washington, DC 20044-7611

E-mail: eescdcopy.enrd@usdoj.gov

Re: DJ # 90-5-2-1-11386

BY: Wilmington Trust. N.A., as Trustee for the Volkswagen Diesel Emissions

Environmental Mitigation Trust for Indian Tribe Beneficiaries

DATE: March 5, 2018

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8	UNITED STATES DISTRICT COURT				
9	NORTHERN DISTRICT OF CALIFORNIA				
10	SAN FRANCISCO DIVISION				
11	IN DE. VOI VOWACEN "CLEAN DIECEL") MD	I No 2672 CDD (I		
12	IN RE: VOLKSWAGEN "CLEAN DIESEL" MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION	 MDL No. 2672 CRB (JSC) ORDER STAYING CERTAIN TRUSTEE OBLIGATIONS UNDER THE 			
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14 15	This Document Relates to:	- ′	ENVIRONMENTAL MITIGATION TRUST AGREEMENT FOR INDIAN TRIBE		
16	United States v. Volkswagen AG et al., Case No. 16-cv-295 (N.D. Cal.)) BENEFICIARIES			
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28	ORDER STAYING CERTAIN TRUSTEE OBLIGATIONS UNI THE ENVIRONMENTAL MITIGATION TRUST AGREEME FOR INDIAN TRIBE RENEFICIAR				

ER NT MDL No. 2672 CRB (JSC)

1. On October 25, 2016, the Cour	t approved a Partial Consent Decree between the plaintiffs
the United States and the State of California, a	and the Volkswagen Defendants in In re Volkswagen
"Clean Diesel" Marketing, Sales Practices, a	nd Products Liability Litigation. Dkt. No. 2103 (Order
Granting the United States' Motion to Enter P	roposed Amended Consent Decree); Dkt. No. 2103-1
(Partial Consent Decree). As part of that settl	ement, the parties agreed that the Defendants would fund a
mitigation trust to provide funds for eligible n	nitigation actions by State and Indian Tribe Beneficiaries.
Dkt. No. 2103-1 at 15, ¶14. On September 19	, 2017, the Court approved the Environmental Mitigation
Trust Agreement for Indian Tribe Beneficiarie	es ("Indian Tribe Trust Agreement" or "Trust
Agreement"), which established the Indian Tr	ibe Trust. United States v. Volkswagen AG et al., Case
No. 16-cv-295, Dkt. No. 49.	

- 2. Pursuant to the terms of the Indian Tribe Trust, the Trustee, Wilmington Trust, N.A., is required to post its approval of the funding requests for the first funding cycle on the Indian Tribe Trust's public-facing website on Monday, March 5, 2018. Indian Tribe Trust Agreement, ¶¶ 5.0.5.2.3, 5.2.16.
- 3. On January 29, 2018, the Trustee filed notice with the Court that 29 Indian Tribes have qualified as Beneficiaries under the Indian Tribe Trust, and that 27 of those Indian Tribe Beneficiaries had submitted requests for funding of Eligible Mitigation Action projects in the first funding cycle under the Trust. Dkt. No. 4701.
- 4. The purpose of the Indian Tribe Trust is to timely and efficiently fund Eligible Mitigation Actions to be proposed and administered by the Beneficiaries. Indian Tribe Trust Agreement, ¶ 2.0.3 (implementing the requirement of Section IV.D of the Partial Consent Decree).
- 5. The United States and the parties to the Indian Tribe Trust Agreement, namely the Defendants and the Trustee, have informed the Court that the amount of approvable funding requests from the Beneficiaries exceeds the amount of available funding in the first funding cycle, and that if funds are distributed for the first funding cycle in accordance with the applicable allocation method, the result would be inconsistent with the purpose of the Indian Tribe Trust.

Having reviewed and considered information received from the United States and the parties to the Indian Tribe Trust Agreement, the Court hereby:

- 1) **ORDERS** the United States and interested Beneficiaries to meet and confer, in consultation with the Trustee, to discuss whether any adjustment to the allocation methodology applicable when approvable funding requests from Beneficiaries exceed available funding is necessary to ensure that the Indian Tribe Trust funds are distributed in a manner that is consistent with the purpose of the Indian Tribe Trust;
- 2) **ORDERS** that within 60 days of this Order, the United States shall file a status report to the Court, unless the United States instead files a proposed modification to the Indian Tribe Trust Agreement for the Court's consideration; and
- 3) **ORDERS** that the Trustee shall take no further actions related to its obligations under Section V (Distribution of Indian Tribe Mitigation Trust Assets) of the Indian Tribe Trust Agreement, including without limitation, its obligations under subparagraph 5.0.5 (and all the subparagraphs thereof), and Paragraphs 5.1, 5.2 (and all the subparagraphs thereof), 5.3, and 5.4, as they relate to the first funding cycle and all future funding cycles under the Indian Tribe Trust, until ordered by the Court to do so.

IT IS SO ORDERED.

Dated: March 2, 2018

CHARLES R. BREYER United States District Judge