

The Volkswagen Diesel Emissions Environmental Mitigation Trust for Indian Tribe Beneficiaries

Notice In Connection With Beneficiary Reporting Obligations Pursuant to Paragraph 5.3 of the Indian Tribe Trust Relating to the Upcoming Deadlines in Light of the COVID-19 Pandemic.

Wilmington Trust, N.A., as Trustee (the “Trustee”) for the Volkswagen Diesel Emissions Environmental Mitigation Trust for Indian Tribe Beneficiaries (the “Indian Tribe Trust”) hereby gives notice that, in accordance with Paragraph 5.3 of Indian Tribe Trust, any Designated Beneficiary that has a disbursement from trust for an Eligible Mitigation Action, is required to submit its first semi-annual report no later than six months after receiving its first disbursement of Trust Assets and thereafter no later than January 30 (for the preceding six-month period of July 1 to December 31) and July 30 (for the preceding six-month period of January 1 to June 30) of each year. The semi-annual report should describe its progress implementing each Eligible Mitigation Action during the six-month period leading up to the reporting date (including a summary of all costs expended on the Eligible Mitigation Action through the reporting date).

The Trustee is aware that the COVID-19 pandemic may have caused a number of challenges which affect a Beneficiary’s ability to complete its semi-annual report(s) by the required deadline(s). Unfortunately, the Trustee is not able to unilaterally amend this deadline or remove this requirement and the cost of doing the required modification to make this change so would not be justified.

However, **there is no penalty for a Beneficiary delivering its semi-annual report after the deadline.** The Trustee has a duty to note any semi-annual reports not delivered by the deadline, in connection with its own reporting obligations under the Indian Tribe Trust. Therefore, **we suggest that all Beneficiaries deliver their semi-annual report(s) as soon as they are able to do so.** (Note: This would apply to Designated Beneficiary Tribes that participated in the First and/or Second Funding Cycles, which still have reporting obligations.)

Focus on Third Funding Cycle

Currently, the Third Funding Cycle is well underway. In accordance with the requirements of the Indian Tribe Trust Agreement, we will file a Notice of Beneficiary Designation (“NBD”) with the Court for first-time Beneficiaries by May 15, 2020.

In order to participate in the Third Funding Cycle following the Trustee’s filing of the NBD with the Court, any interested Designated Beneficiaries will also need to meet the following Beneficiary deadlines set forth below to obtain trust funds:

Third Funding Cycle Timetable

6/15/2020	Deadline for Beneficiaries to submit Designated Beneficiary’s Participation Notice (Appendix D-6).
6/29/2020	<ul style="list-style-type: none"> • Trustee applies per capita and pro rata Allocation (subparagraph 5.0.5.3.3). • Trustee posts Notice of Allocation Determination to Beneficiaries via Intralinks (5.0.5.3.3).
8/28/2020	<p>Deadline for Beneficiary submission (via Intralinks and hard copy) to Trustee of:</p> <ul style="list-style-type: none"> • Either: an Appendix D-4 Beneficiary EMA Certification • Or: an Appendix D-7 Beneficiary’s Election to Opt Out Form <p style="text-align: right;">(paragraph 5.2 and subparagraph 5.0.5.3.3).</p>
10/27/2020	Trustee transmits written determination of each Beneficiary’s EMA Certification form either:(i) approving the request; (ii) denying the request; (iii) requesting modifications to the request; or (iv) requesting further information (subparagraph 5.2.16).
11/12/2020	Disbursement of Funds to Beneficiaries begins (subparagraph 5.2.16.1) - subject to receipt by the Trustee of all required documentation and Trustee approval of revised EMA Certification Form (Appendix D-4).
11/19/2020	Trustee posts the final Allocation amounts for all participating Beneficiaries in the First Funding cycle on the Indian Tribe Trust’s public-facing website (subparagraph 5.0.5.3.3).

Given the dramatic effects that COVID-19 has had on everyone, it is the Trustee’s recommendation that all Designated Beneficiaries and their staff who wish to participate consider focusing on meeting the deadlines (see bolded dates above) for the Third Funding Cycle. The Indian Tribe Trust’s designated technical assistance provider – the Institute for Tribal Environmental Professionals (ITEP) – is ready and able to assist you with this.

Please contact the following staff members at ITEP who can assist you with this process:

Mark Daniels mark.daniels@nau.edu 928-523-8897	or	Mehrdad Khatibi mehrdad.khatibi@nau.edu 928-523-0946
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The Trustee is also in the process of working with the United States to make some minor modifications to the Indian Tribe Trust that will allow certain documents required to be delivered under the Indian Tribe Trust to be electronically signed and will also allow the Trustee to eliminate the need to deliver originals at this time.

We will be sending a separate detailed notice regarding those changes in the near future.

BY: Wilmington Trust, N.A., as Trustee for the Volkswagen Diesel Emissions Environmental Mitigation Trust for Indian Tribe Beneficiaries

DATE: May 5, 2020