

Volkswagen Diesel Emissions Environmental Mitigation Trust For Indian Tribe Beneficiaries
Frequently Asked Questions

No.	Question	Answer
1.	Where can I find a copy of the Trust Agreement?	The final Indian Tribe Trust Agreement was filed with the U.S. District Court for the Northern District of California in case US v. Volkswagen matter, Case No. 16-cv-295. It is also posted on the public website at http://www.vwenvironmentalmitigationtrust.com .
Federally-Recognized Indian Tribes – How to become a Beneficiary		
2.	How does a Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. § 5130. Pursuant to 25 U.S.C. § 5131, the Bureau of Indian Affairs of the Department of the Interior published a current list of federally acknowledged Indian Tribes at 82 Fed. Reg. 4,915 (Jan. 17, 2017) (a “Federally Recognized Indian Tribe”), become a Beneficiary under the Indian Tribe Trust?	<p>Each Federally-Recognized Indian Tribe has six (6) opportunities to become a Beneficiary under the Indian Tribe Trust. The relevant sections of the Indian Tribe Trust are Section IV – “Indian Tribe Mitigation Beneficiary Status” Paragraph 4.0 and all the subparagraphs thereof and Section V “Distribution of Indian Tribe Mitigation Tribe Mitigation Trust Assets” Paragraph V and all the subparagraphs thereof.</p> <p><u>Funding Cycles 1 -6 - deadlines</u> Pursuant to subparagraph 5.0.5.2, each Indian Tribe may submit to the Trustee a Beneficiary Eligible Mitigation Action Certification form (Appendix D-4) that meets the requirements of subparagraphs 5.2.2 through 5.2.13, as applicable, by the following funding request deadlines for six annual funding cycles:</p> <p style="padding-left: 40px;">(Cycle 1) for the first funding cycle only --90 Days after the Trust Effective Date [the deadline is January 2, 2018]; and</p> <p style="padding-left: 40px;">(Cycles 2 to 6) for each funding cycle for years two through six – the deadline is September 1, 2018, through September 1, 2022, respectively.</p> <p>Note on deadlines days: Consistent with subparagraph 1.6 of the Indian Tribe Trust, if the deadline were to fall on a Saturday, Sunday, or federal or Delaware holiday, then the period shall run to the close of business of the next Business Day.</p> <p><u>What to Provide</u></p> <p>In order for a Federally-Recognized Indian Tribe to become a Beneficiary under the Indian Tribe Trust, a Federally Recognized Indian Tribe <u>must file the following documents</u> all together at the same time by the deadline for the funding cycle in which they wish to participate:</p> <ul style="list-style-type: none"> - Appendix D-3- together with the attachment which responds to paragraph 7; - Appendix D-4 – together with all applicable

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		<p>attachments; and,</p> <p>- the DERA Notice of Intent to Participate (if they intend to participate in DERA for that funding cycle).</p> <p>The Indian Tribe Beneficiary status will be determined in accordance with 4.0.2, 4.0.2.1 and 4.0.2.3.</p>
3.	Can a potential Indian Tribe Beneficiary become a Beneficiary under the Indian Tribe Trust Agreement if it does not file in the first funding cycle?	Yes. A potential Indian Tribe Beneficiary has the opportunity to become a Beneficiary of the Indian Tribe Trust if it files all the required documentation by the deadline for any one of the 6 funding cycles.
Appendix D-3 – Beneficiary Certification Questions		
4.	Where can I find copies of Appendix D-3 and the other documentation I need to fill out to become a Beneficiary and to prepare to submit Funding requests?	All of the necessary documents required to be completed by Beneficiaries will be available to a potential Indian Tribe Beneficiary once the potential Indian Tribe Beneficiary delivers the necessary initial verification documentation to the Trustee. To obtain the initial documentation, please contact Russell Crane at rcrane@wilmingtontrust.com .
5.	Who signs on the signature page?	<p>The signature blocks must remain the same. There needs to be an authorized signatory for the Chief Executive Officer of the Indian Tribe– it must be the Chief Executive Officer.</p> <p>You are required to use the Attorney General- or highest legal official for the Indian Tribe signature block only in the case where there is a legal claim waiver that the Attorney General-or highest legal official for the Indian Tribe-must sign, in addition to the Chief Executive Officer, as required by tribal law. The Attorney General-or highest legal official-cannot substitute for the Chief Executive of the Indian Tribe. If the Attorney General- or highest legal official is the only person who can provide the legal claim waiver, the Attorney General- or highest legal official must sign, in addition to the governor.</p>
6.	Must Indian Tribe Attorney General or highest legal official sign D-3 form?	It depends on the Indian Tribe’s own requirements for waiving of injunctive relief may require approval by Attorney General- or highest legal official for the Indian Tribe.
7.	Can the Appendix D-3 be electronically signed?	No. It must be a manual signature.
8.	What is the deadline for filing the Appendix D-3 with the Court? Where is it filed?	Pursuant to paragraph 5.0.5 (and all subparagraphs thereof) of the Indian Tribe Trust, the Appendix D-3 must be filed with the U.S. District Court for the Northern District of California and copies must also be

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		<p>received by the Trustee (via secure internet portal** and/or U.S. Mail) on or before the deadline for the requested annual funding cycle:</p> <p>(Cycle 1) - for the first funding cycle only --90 Days after the Trust Effective Date [viz., the deadline is January 2, 2018]; and</p> <p>(Cycles 2 to 6) - for each funding cycle for years two through six – the deadline is September 1, 2018, through September 1, 2022, respectively.</p> <p>Note on deadline days: Consistent with subparagraph 1.6 of the Indian Tribe Trust, if the deadline were to fall on a Saturday, Sunday, or federal or Delaware holiday, then the period shall run to the close of business of the next Business Day.</p> <p>**Secure Internet Portal – established and maintained by the Trustee for exclusive use by Trust Beneficiaries. Please contact Russell Crane for more information.</p> <p><u>Filing with the Court</u> When filing using PACER, the date stamp cutoff time is 11:59 p.m. Pacific Standard Time (PST) on deadline for the requested annual funding cycle (<i>see deadlines above</i>).</p> <p>The Appendix D-3 must be electronically filed with confirmation of filing from U.S. District Court for the Northern District of California in case In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation Case No. 15-MD-2672 CRB.</p> <p>Label your Appendix D-3 Certification of Beneficiary Status as: "Notice of Filing of Certification for Beneficiary Status Under the Environmental Mitigation Trust Agreement for the [<i>insert of Indian Tribe Beneficiary</i>]."</p> <p>Court filing instructions using PACER will also be available to a potential Indian Tribe Beneficiary once the potential Indian Tribe Beneficiary delivers the necessary initial verification documentation to the Trustee. To obtain the initial verification documentation, please contact Russell Crane at</p>

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		rcrane@wilmingtontrust.com.
9.	How should the Appendix D-3 be submitted to the Trustee?	<p>Beneficiaries are also required to deliver the Appendix D-3 on or before 5:00 pm Eastern Time on the deadline date for the requested funding cycle (<i>see FAQ no. 2</i>) to the Trustee by secure internet portal and by a hard copy.</p> <p>A Beneficiary may satisfy the delivery requirements of the Appendix D-3 to the Trustee before the deadline by delivering (i) a PDF copy must of Appendix D-3 be received by the Trustee via the secure internet portal and (ii) by sending a hard copy original Appendix D-3 which must be received by the Trustee at its physical delivery address below sent by certified return receipt mail and received on or before 5:00 pm Eastern Time on the deadline date for the requested funding cycle (<i>see FAQ no. 2</i>) with proof of delivery. The physical delivery address is below:</p> <p style="padding-left: 40px;">Wilmington Trust, N.A. as Trustee of the Volkswagen Diesel Emissions Environmental Mitigation Trust for Indian Tribe Beneficiaries Rodney Square North 1100 North Market Street Attn: Capital Markets & Agency Services Wilmington, DE 19890 Telephone No. for Courier Delivery: 302 636-5170</p>
10.	When sending a hard copy to the Trustee, does it need to be an original document with original signatures or can it be a copy?	<p>The Trustee must receive a copy via secure internet portal and another copy by mail or guaranteed-overnight on or before 5:00 pm Eastern Time on the deadline date for the requested funding cycle (<i>see FAQ no. 2</i>). The Appendix D-3 sent to the Trustee does not have to have original signatures it can be a copy. Note: the signatures must be manual signatures - no electronic signatures will be accepted.</p>
11.	Can a Beneficiary file before the deadline?	<p>Filing early is recommended to ensure that you have sufficient time to correct any errors in your filing before the deadline.</p>
12.	<p>Is a <i>pro hac vice</i> admission to the U.S. District Court for the Northern District of California required to make the Appendix D-3 filing?</p> <p><i>Pro hac vice is special permission to appear before a Court where the lawyer is not admitted.</i></p>	<p>No pro hac vice admission will be required for the filing of Appendix D-3, Certification for Beneficiary Status, with the U.S. District Court for the Northern District of California.</p>
13.	In Appendix D-3, should the Beneficiary's Lead Agency Contact Information be the	<p>The Lead Agency Contact is the person authorized to request/direct the Trustee with respect to payments,</p>

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	head of the Agency or the lead staff person for the Agency working on this matter? In other words, for what purposes will the Beneficiary's Lead Agency Contact be contacted?	either initially or for the duration of Beneficiary's interaction with the Trustee. Delegation of the lead agency authority occurs through execution of the Trustee's Delegation of Authority and Incumbency Certification. This would allow the lead agency to designate someone other than, or in addition to, the lead agency contact to delegate their authority to instruct the Trustee relating to the security procedures for the Funding Requests.
14.	Who in our Agencies should be named as the contact for the Lead Agency in the Appendix D-3? Commissioner of the Lead Agency? Staff of the Lead Agency?	This is up to the discretion of the Lead Agency; however, the person on the Appendix D-3 should be at a high enough level to be able to make the certifications in the Appendix D-3.
15.	The Appendix D-3 form requires identification of Lead Agency Contact Person. Since this form may be filed prior to the Incumbency form, can the contact person in D-3 still be someone in the lead agency other than the head of the lead agency?	Yes.
16.	Does the Trustee plan to certify any Beneficiaries before the expiration of the 120 day time period for the first funding cycle?	The Trustee plans to do only one filing certifying all Beneficiaries at the same time at the expiration of the deadline for each funding cycle.
17.	How shall I fill in Appendix D-3?	<p>The top blank line must identify the Indian Tribe Beneficiary. The next blank line must identify the "Lead Agency" which will be the Agency responsible for making all of the necessary certifications in the Trust Agreement on behalf of the Beneficiary, who is setting up the "self-compliance" plan for the Beneficiary and who will direct the Trustee with respect to all Beneficiary rights and duties under the Trust Agreement.</p> <p>In the box labelled Beneficiary's Lead Agency Contact Information, you should fill in the information for the official who heads of the designed Lead Agency along with the Title –including the name of the current person holding that title is preferable – although title will be accepted.</p>
18.	What else do I need to file with Appendix D-3?	By the terms of Appendix D-3 paragraph No. 7, The Beneficiary certifies that it will maintain and make publicly available all documentation and records: (i) submitted by it in support of each funding request; and (ii) supporting all expenditures of Trust Funds by the Beneficiary, each until the Termination Date of the

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		<p>Trust pursuant to Paragraph 6.8 of the Trust Agreement, unless the laws of the Beneficiary require a longer record retention period.</p> <p>In connection with the filing of the Appendix D-3, each Beneficiary must attach an explanation of:</p> <ul style="list-style-type: none"> (i) the procedures by which public records may be accessed; and (ii) a description of whether and the extent to which the certification in Paragraph 7 is subject to the Beneficiary’s applicable laws governing the publication of confidential business information and personally identifiable information. <p>Since these documents are all required to be posted on the public facing website, please prepared them with this ultimate goal in mind. They should be delivered to the Trustee in website-ready form.</p>
19.	On D-3, how are we to attach the supplemental information regarding public input, etc. (Section 7)?	This will be submitted as a PDF. You can likely append additional PDFs to the submission. The form itself is what will be of concern to the Court and the Trustee. The form can be filed as an attachment to the Appendix D-3 in the same filing.
20.	What happens if I did not file my Appendix D-3 and Appendix D-4 the January 2, 2018 filing deadlines with the Court and the Trustee for the first funding cycle?	<p>Each potential Indian Tribe Beneficiary has from January 3, 2018 until September 1, 2018 to file their Appendix D-3 and their Appendix D-4 to participate in the second funding cycle. Each potential Indian Tribe Beneficiary may begin filing their documentation for the second funding cycle now.</p> <p>Each potential Indian Tribe Beneficiary is encouraged to begin this process as early as possible to allow sufficient time to correct any errors in these filings. There are 5 more funding cycles the deadlines for each of those funding cycles is September 1, 2018 through September 1, 2022, respectively (<i>see FAQ no. 2</i>).</p>
Appendix D-4 - Beneficiary Eligible Mitigation Action Certification		
21.	When does a potential Indian Tribe Beneficiary need to deliver their Appendix D-4?	<p>A potential Indian Tribe Beneficiary must deliver their Appendix D-4 together with their Appendix D-3 on the same deadline schedule. The only difference is that <u>Appendix D-4 does not have to be filed</u> with the U.S. District Court for the Northern District of California.</p> <p>Beneficiaries are also required to deliver the Appendix D-4 on or before 5:00 pm Eastern Time on the deadline date for the requested funding cycle (<i>see FAQ</i></p>

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		<i>no. 2)</i> to the Trustee by Secure internet portal and by hard copy.
22.	How may a Beneficiary satisfy the delivery requirements deadline of the Appendix D-4?	<p>A Beneficiary may satisfy the delivery requirements deadline of the Appendix D-4 to the Trustee by:</p> <ul style="list-style-type: none"> (i) delivering a PDF copy of Appendix D-4 to the Trustee (receipt confirmed by the Trustee) via the Interlinks portal; and, (ii) sending a hard copy original Appendix D-4 must be received by the Trustee at its physical delivery address below sent by certified return receipt mail and received before 5pm Eastern Standard Time on January 2, 2018 with proof delivery. <p>The physical delivery address is below: Wilmington Trust, N.A. as Trustee <i>Volkswagen Diesel Emissions Environmental Mitigation Trust for Indian Tribe Beneficiaries</i> Rodney Square North 1100 North Market Street Attn: Capital Markets & Agency Services Wilmington, DE 19890 Telephone No. for Guaranteed Courier Delivery: [302 636-5170]</p>
23.	When sending a hard copy to the Trustee, does it need to be an original document with original signatures or can it be a copy?	<p>The Appendix D-4 sent to the Trustee does not have to have original signatures – it can be a copy.</p> <p>Remember that, the Trustee must receive a copy via secure internet portal and by mail or guaranteed-overnight courier on or before 5:00 pm Eastern Time on the <u>deadline date for the requested funding cycle</u>:</p> <ul style="list-style-type: none"> • First funding cycle - January 2, 2018; and, • Second through Sixth funding cycles - September 1, 2018 through September 1, 2022, respectively
24.	Can a Beneficiary file before the deadline?	Filing early is recommended to ensure that you have sufficient time to correct any problems with your filing before the deadline.
25.	Where can Beneficiaries get help with the technical questions we have related to our Appendix D-3, Appendix D-4, and Eligible Mitigation Actions?	<p>The Institute for Tribal Environmental Professionals (ITEP) has been named as the <i>Technical Assistance Provider</i> under the Indian Tribe Trust Agreement.</p> <p>Please contact ITEP for technical assistance relating to completing your Appendix D-3, your Appendix D-4 and your Eligible Mitigation Action.</p> <p>They can be reached:</p>

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		<p>By mail: Institute for Tribal Environmental Professionals Attn: Executive Director Northern Arizona University P.O. Box 15004 Flagstaff, AZ 86011-5004</p> <p>By phone/email: Andy Bessler, Project Director VW Settlement Technical Assistance Program Institute for Tribal Environmental Professionals Phone: (928) 523-0526 E-mail: Andy.Bessler@nau.edu</p>
26.	Who is entitled receive assistance from the Trustee and the Technical Assistance Provider?	<p>The Trust was established for the benefit of the Federally Recognized Indian Tribes. Only officials of the Federally Recognized Indian Tribes are entitled to utilize its resources and receive assistance from the Trustee and the Technical Assistance Provider.</p> <p>Neither the Trustee nor the Technical Assistance Provider will be providing assistance to or dealing directly with any third party providers who wish to provide their services to a potential Indian Tribe Beneficiary.</p>
Eligible Mitigation Action Questions		
27.	Who is responsible for the content of the Beneficiary’s Eligible Mitigation Action?	<p>In accordance with the Trust Agreement, each Beneficiary is responsible for monitoring its own compliance with the requirements of the Trust Agreement. Each Beneficiary must establish its own “self-compliance and monitoring system” that will enable it to make the necessary on-going certifications required under the Trust Agreement.</p> <p>The Trustee will not be examining the contents of any Eligible Mitigation Action; this is the responsibility of the Lead Agency of the Beneficiary. The Trustee will be examining the documents that are delivered by the Beneficiary to make sure all the required items have been delivered.</p> <p>The first part of this process is outlined in Paragraph 7 of Appendix D-3. Appendix D-4 also addresses your Eligible Mitigation Actions.</p>
28.	When does the Beneficiary need to file their Mitigation Action?	By the deadline for the filing of the Appendix D-3 and Appendix D-4 which is January 2, 2018 for the first funding cycle.
29.	Who is responsible for signing off on any	The Trustee will not be “signing off” on the contents of

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	Eligible Mitigation Action?	any “Eligible Mitigation Action.” Each Beneficiary is responsible for monitoring the Beneficiary’s own compliance with its Mitigation Plan and all Eligible Mitigation Actions; again it is the responsibility of the Beneficiary to establish its own “self-compliance and monitoring system” that will enable it to make the necessary on-going certifications required under the Trust Agreement. The Trustee will be examining the documents that are delivered by the Beneficiary to make sure all the required items have been delivered.
Federal and State Taxes		
30.	Is the Trustee seeking a Private Letter Ruling on the Tax Issue? Will the Trustee also be seeking similar relief related to State taxes?	<p>Yes. The Indian Tribe Mitigation Trust is intended to be a qualified settlement fund (“QSF”) pursuant to Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. The Trustee is intended to be the Indian Tribe Trust’s “administrator,” within the meaning of Treasury Regulation Section 1.468B-2(k)(3), 26 C.F.R. § 1.468B-2(k)(3).</p> <p>The Trustee shall use its best efforts to submit, within six months after the Trust Effective Date, an application and all necessary supporting documentation to the IRS to obtain a Private Letter Ruling from the IRS: (1) that the Indian Tribe Mitigation Trust will be treated as a Qualified Settlement Fund under 26 C.F.R. § 1.468B-1; and (2) on any federal tax matter that the Tax Professionals reasonably believe is necessary to support the ruling in (1) or otherwise prudent to clarify an uncertain application of federal tax law to the Indian Tribe Mitigation Trust.</p>
<p><i>NOTE: The information in these FAQs will be update on a regular basis, as appropriate, therefore please make sure you are using the latest version posted here on www.vwenvironmentalmitigationtrust.com.</i></p>		