

Volkswagen Diesel Emissions Environmental Mitigation Trust for Indian Tribe Beneficiaries
Semi Annual Reporting Table of Contents
For the Reporting Period Ending December 31, 2018

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Subparagraph 3.3.1.2.iii □

No activity in the reporting period

Subparagraph 3.3.1.2.iv

No eligible mitigation action funds were disbursed in the reporting period

Subparagraph 3.3.1.4

Semi-Annual Reporting Package includes a 3-year projected annual budget for the Tribal Administration Cost Subaccount, as well as balance statements for all subaccounts as of December 31, 2018. As the Trustee has not processed any disbursements related to approved Eligible Mitigation Actions in the Reporting Period, at this time we have insufficient data to attempt a meaningful analysis of a 3-year projected relating to investment earnings and likely balances for an itemized annual budget for the Tribal Allocation Subaccount or any other subaccounts.

**The Volkswagen Diesel Emissions Environmental Mitigation Trust
for Indian Tribe Beneficiaries**

Trustee Descriptive Report for Period July 1, 2018 to December 31, 2018
As required under subparagraphs 3.3.1.6 and 3.3.1.7

Establishment, Purpose, and Funding of the Indian Tribe Trust

On October 25, 2016, Volkswagen AG (“VW”) and certain subsidiaries entered into a Partial Consent Decree, and on May 17, 2017 entered into a Second Partial Consent Decree, in US District Court, Northern District of California, San Francisco Division, which require VW to make payments in the amounts of \$2.7 billion and \$225 million, respectively, to fulfill their environmental mitigation obligations pursuant to the Decrees. The Consent Decrees required the Settling Defendants to establish the Environmental Mitigation Trust for Indian Tribe Beneficiaries (the “Indian Tribe Trust” or “Indian Tribe Mitigation Trust”) and to fund the Indian Tribe Trust with funds to be used for environmental mitigation projects that reduce emissions of nitrogen oxides (“NOx”) where the Subject Vehicles were, are, or will be operated (“Eligible Mitigation Actions”), and to pay for Trust Administration Costs as set forth in the Indian Tribe Trust Agreement.

On March 15, 2017, the court appointed Wilmington Trust, N.A. (“WTNA”) as the Trustee for Indian Tribe Mitigation Trust. The Indian Tribe Trust’s purpose is to fund eligible environmental mitigation projects that reduce emissions of nitrogen oxide. The Indian Tribe Trust also provides for the payment of Trust Administration costs. On October 2, 2017, the Indian Tribe Trust was established and approximately \$41.4 million was deposited into the Trust before the end of 2017.

By the end of 2018, the Trustee received from the Settling Defendants a deposit of approximately \$18 million, which represented the Indian Tribe Trust’s portion of the final \$900 million required under the 2.0L Partial Consent Decree. In accordance with the Indian Tribe Trust agreement, the Trustee allocated these funds to the Tribal Allocation Subaccount and the Administration Cost Subaccount consistent with the weighted average rate set forth in Appendix D-1B.

In the reporting period (July 1, 2018 to December 31, 2018), WTNA completed a number of actions permitted and required under the Trust Agreement and Consent Decrees, which included a material modification of the Indian Tribe Trust to adjust the allocation method among Designated Beneficiaries; pursuit of the Private Letter Ruling from the IRS; and payment of Trust bills. A brief description of each of these actions is included below.

3.3.1.7 Actions taken in reporting period in accordance with Trust Agreement and Consent Decrees

Court Order Stay and Material Modification of the Indian Tribe Trust

During much of the reporting period, the Trustee was subject to a March 2, 2018 Court Order directing the Trustee to:

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

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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.¹

In compliance with the Order, the Trustee took no further action relating 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.

The Order also required 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. The U.S. Department of Justice conducted a number of telephonic conferences with the interested Beneficiaries and also consulted with the Trustee.

On June 21, 2018, the United States filed with the Court a Notice of Proposed Material Modifications to Indian Tribe Trust Agreement, which the Trustee delivered to all 29 Designated Beneficiaries, and posted on the Indian Tribe Trust's public-facing website. The United States invited any interested Indian Tribes to participate in several telephonic conferences and to submit written comments to the proposed modifications to the Indian Tribe Trust, which it addressed in its response and incorporated many of these into its revisions of the Indian Tribe Trust Agreement. Following a hearing on November 9, 2018 in the U.S. District Court for the Northern District of California, Judge Charles R. Breyer on November 16, 2018 issued an Order Approving Material Modifications to the Indian Tribe Trust and lifting the stay imposed on trust disbursements. On November 30, 2018, the United States filed the final, executed Modified Indian Tribe Trust Agreement with the Court, establishing this date as the Trust Modification Effective Date ("TMED").

Implementation of Steps for First Funding Cycle under the Modified Indian Tribe Trust Agreement

Pursuant to subparagraph 5.0.5.3.2, the Trustee implemented the allocation steps required under the Modified Indian Tribe Trust Agreement within 10 Business Days after the TMED. Within 10 Business Days after applying the allocation rules therein, the Trustee transmitted notice to each of the 26 eligible Beneficiaries regarding the Trustee's allocation determination of the amount of funding available for each Beneficiary. This notice was transmitted on December 31, 2018.

Pursuit of Private Letter Ruling from the Internal Revenue Service

In the reporting period, the Trustee continued the pursuit of a Private Letter Ruling ("PLR") from the Internal Revenue Service ("IRS"), which began in early 2018 and for which it had applied on June 21, 2018. As reported in the report covering the period of January 1, 2018 to June 30, 2018, the Trustee had engaged tax attorneys at the firm of Morgan, Lewis & Bockius LLP ("Morgan Lewis") which continues

¹ Court Order by Judge Charles R. Breyer in Case 3:15-md-02672-CRB, Document 4867, pg. 3. (Order can be downloaded from <https://www.vwenvironmentalmitigationtrust.com/Court-Order-ECF4867>.)

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to assist the Trustee in this process. Morgan Lewis has been in continual discussion with IRS about obtaining the PLR since submission.


As of July 23, the IRS had assigned the PLR submission to a reviewer. In accordance with the Trust Agreement, the Trustee continues to deduct (and deposit into the Tax Payment Subaccount) estimated taxes from the investment income of the Indian Tribe Trust until the Trust receives a decision on the PLR from the IRS.

Payment of Trust Bills

In the period, the Indian Tribe Trust paid \$16,000 in Trust Administration Costs. The Indian Tribe Trust also paid approximately \$700,000 in costs to third-party professionals.

3.3.1.6 Previously unreported action taken by Trust that materially adversely affects Trust

Nothing to report.

By:  _____
Name: Russell L. Crane, MBA
Title: Assistant Vice President
Wilmington Trust, N.A., as Trustee

Date: February 15, 2019

Volkswagen Diesel Emissions Environmental Trust for Indian Tribe Beneficiaries
Trust Asset Statements and Investments Listing
December 31, 2018

(\$ in thousands)

Portfolio(s)	Maturity Date	Rating	Amount
Tribal Allocation Subaccount			
Cash			\$ 427
BlackRock Liquidity Fund			6,145
Marketable Securities at Costs			
U.S. Treasury Bills	01/03/2019	AAA	5,226
U.S. Treasury Bills	01/17/2019	N/A	8,877
U.S. Treasury Bills	01/24/2019	AAA	8,887
U.S. Treasury Bills	02/07/2019	AAA	3,169
U.S. Treasury Bills	02/14/2019	AAA	5,331
U.S. Treasury Bills	02/21/2019	AAA	1,784
U.S. Treasury Bills	02/28/2019	AAA	3,612
U.S. Treasury Bills	03/07/2019	AAA	7,025
U.S. Treasury Bills	03/14/2019	AAA	1,816
Marketable Securities at Costs Total			45,727
Accrued Interest Income			124
Tribal Allocation Subaccount Total			\$ 52,423
Tribal Tech Advisor Subaccount			
Cash			\$ 14
BlackRock Liquidity Fund			481
Marketable Securities at Costs			
U.S. Treasury Bills	01/03/2019	AAA	274
U.S. Treasury Bills	01/17/2019	N/A	299
U.S. Treasury Bills	01/24/2019	AAA	373
U.S. Treasury Bills	02/14/2019	AAA	184
U.S. Treasury Bills	02/21/2019	AAA	89
U.S. Treasury Bills	02/28/2019	AAA	189
U.S. Treasury Bills	03/07/2019	AAA	274
Marketable Securities at Costs Total			1,682
Accrued Interest Income			4
Tribal Tech Advisor Subaccount Total			\$ 2,181
Tribal Administration Cost Subaccount			
Cash			\$ 26
BlackRock Liquidity Fund			424
Marketable Securities at Costs			
U.S. Treasury Bills	01/03/2019	AAA	499
U.S. Treasury Bills	01/17/2019	N/A	453
U.S. Treasury Bills	01/24/2019	AAA	527
U.S. Treasury Bills	01/31/2019	N/A	149
U.S. Treasury Bills	02/07/2019	AAA	65
U.S. Treasury Bills	02/14/2019	AAA	333
U.S. Treasury Bills	02/21/2019	AAA	174
U.S. Treasury Bills	02/28/2019	AAA	303
U.S. Treasury Bills	03/07/2019	AAA	498
U.S. Treasury Bills	03/14/2019	AAA	149
Marketable Securities at Costs Total			3,150
Accrued Interest Income			7
Tribal Administration Cost Subaccount Total			\$ 3,607
Tribal Tax Subaccount			
Cash			\$ 136
Tribal Tax Subaccount Total			\$ 136
Tribal Advisory Council Subaccount			
Cash			\$ -
BlackRock Liquidity Fund			20
Marketable Securities at Costs			
U.S. Treasury Bills	01/17/2019	N/A	5
U.S. Treasury Bills	01/24/2019	AAA	5
Marketable Securities at Costs Total			10
Accrued Interest Income			-
Tribal Advisory Council Subaccount Total			\$ 30
Indian Tribe Trust Total			
Cash			\$ 603
BlackRock Liquidity Fund			7,070
Marketable Securities at Costs			50,569
Accrued Interest Income			135
Indian Tribe Trust Total			\$ 58,377

Volkswagen Diesel Emissions Environmental Trust for Indian Tribe Beneficiaries
Tribe Trust Payments and Administration Costs Line Item
October 2, 2017 through December 31, 2018

(\$ in thousands)

Recipient	Cumulative Paid
Tribal Allocation	
Trust Administrator Costs	\$ 22
Tribal Allocation Total	\$ 22
Tribal Tech Advisor	
Trust Administrator Costs	\$ -
Tribal Tech Advisor Costs	567
Tribal Allocation Total	\$ 567
Tribal Administration Cost	
Trust Administrator Costs	\$ 25
Trust Counsel	589
Insurance	307
Audit	41
Accounting	41
Tax Return	41
Consultant	152
Website Development	7
Technical Assistance	1
Website Support	2
Tax Counsel	58
Intralink	1
Contingency Expenses	40
Tribal Administration Cost Total	\$ 1,305
Tribal Tax	
Estimated State Taxes Paid	\$ 3
Tribal Tax Total	\$ 3
Tribal Advisory Council	
Trust Administrator Costs	\$ 2
Tribal Advisory Council Total	\$ 2
Indian Tribe Trust Total	\$ 1,899

Subparagraphs:

3.3.1.1.iii

3.3.1.3.i

**Volkswagen Diesel Emissions Environmental Trust for Indian Tribe Beneficiaries
Trust Asset Allocation and Allocation Adjustment
December 31, 2018**

(\$ in thousands)

	Funding			Tax Transfer from Tribal Allocation and Administration Costs Subaccounts to Tribe Tax
	October 31, 2017	November 30, 2017	November 30, 2018	
Tribal Allocation	\$ 20,333	\$ 15,723	\$ 15,723	\$ (124)
Tribal Tech Advisor	1,070	828	828	(3)
Tribal Administration Cost	1,874	1,509	1,509	(13)
Tribal Advisory Council	30	-	-	-
	\$ 23,307	\$ 18,060	\$ 18,060	\$ (140)
Tribal Tax Subaccount	-	-	-	140
Total	\$ 23,307	\$ 18,060	\$ 18,060	\$ -

**Volkswagen Diesel Emissions Environmental Trust for Indian Tribe Beneficiaries
Administration Costs Three Year Projected Budget**

	YE 2019	YE 2020	YE 2021	Total 3-year projected budget
Governance Costs				
Trust Administrator (Wilmington Trust) *	\$22,500	\$22,500	\$22,500	\$67,500
Subtotal for Governance Costs	\$22,500	\$22,500	\$22,500	\$67,500
Trust Professionals				
Trust Counsel	\$485,000	\$51,000	\$45,000	\$581,000
Trust Accountants	58,000	58,000	58,000	174,000
Tax Return Preparation	50,000	50,000	50,000	150,000
Trust Auditors	50,000	50,000	50,000	150,000
Consultants	41,200	24,000	24,000	89,200
Website support **	400	400	400	1,200
Intralinks **	768	768	768	2,304
Tax Counsel	15,000	10,000	10,000	\$35,000
Subtotal for Trust Professionals	\$700,368	\$244,168	\$238,168	\$1,182,704
Other Expenses				
Contingency	\$25,000	\$25,000	\$25,000	\$75,000
Subtotal for Other Expenses	\$25,000	\$25,000	\$25,000	\$75,000
Total Reporting Costs	\$747,868	\$291,668	\$285,668	\$1,325,204

* includes quarterly Trustee Administration Fees, annual QSF Administration Fee, and estimated Trustee out-of-pocket expenses

** represents 2% of shared cost with State Trust (see subparagraph 2.1.3.2 of Indian Tribe Trust)