

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

**Notice Of The Third Funding Cycle Under The Modified Volkswagen Diesel Emissions  
Environmental Mitigation Trust For Indian Tribe Beneficiaries In Accordance With  
Subparagraph 5.0.5.1 (b)**

To: The 70 Indian Tribes previously designated as Beneficiaries of the Indian Tribe Trust *and* any Federally-Recognized Indian Tribes seeking to qualify as designated Beneficiaries

Via: Intralinks and the Indian Tribe Trust’s public-facing website  
[www.vwenvironmentalmitigationtrust.com/tribe-trust](http://www.vwenvironmentalmitigationtrust.com/tribe-trust) (on January 15, 2020)

-----

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 of the **Third Funding Cycle** in accordance with Subparagraph 5.0.5.1.b of the final, fully-executed Environmental Mitigation Trust Agreement for Indian Tribe Trust Beneficiaries (as modified on November 15, 2018) (the “Modified Indian Tribe Trust Agreement”) as filed with the United States District Judge for the Northern District of California on November 30, 2018<sup>1</sup>.

**Eligibility for the Third Funding Cycle and Beneficiary Designation**

According to subparagraph 2.1.2.1 of the Modified Indian Tribe Trust Agreement, “**prior to receiving any funds, each Indian Tribe must establish Beneficiary status** pursuant to Paragraph 4.0 by filing with the Court a Beneficiary Status Certification Form (Appendix D-3) containing each of the certifications required by subparagraphs 4.2.1 through 4.2.9.”

In order to be eligible to participate in the third (or any subsequent) funding cycle of the Indian Tribe Trust, a federally-recognized Indian Tribe (per para. 1.19) must:

- Have been previously designated as a Beneficiary; or,
- Elect to become a Beneficiary of the Modified Indian Tribe Trust & then be designated as a Beneficiary by the Trustee.

**Previously Designated Beneficiaries**

The Trustee filed a **first Notice of Beneficiary Designation (NBD)**<sup>2</sup> with the Court on January 29, 2018, which designated 29 Indian Tribes as Beneficiaries pursuant to the terms of the Indian Tribe Trust Agreement. The Trustee filed a **second NBD**<sup>3</sup> with the Court on May 17, 2019, which designated an additional 41 Indian Tribes as Beneficiaries pursuant to the terms of the

---

<sup>1</sup> A searchable copy of the executed, Modified Indian Tribe Trust Agreement can be accessed online at [https://www.vwenvironmentalmitigationtrust.com/modified\\_tribe\\_trust\\_agreement](https://www.vwenvironmentalmitigationtrust.com/modified_tribe_trust_agreement).

<sup>2</sup> This Notice can be accessed online at <https://www.vwenvironmentalmitigationtrust.com/TribeNBD1>.

<sup>3</sup> This Notice can be accessed online at <https://www.vwenvironmentalmitigationtrust.com/TribeNBD2>.

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

Modified Indian Tribe Trust Agreement. **The 70 Tribes previously designated as a Beneficiaries via NBD do not need to file another Appendix D-3 to participate in this third funding cycle** – unless the lead agency has changed. If so, please contact the Trustee.

Electing to Become a Beneficiary

In accordance with subparagraph 5.0.5.1 b (Other Funding Cycles), each Indian Tribe, which has not yet been designated a Beneficiary by the Trustee, may seek to become a Beneficiary hereunder by filing with the Court a **Beneficiary Status Certification Form (Appendix D-3)** consistent with Paragraph 4.2 by the deadline for that funding cycle. The third funding cycle Appendix D-3 deadline is **March 16, 2020**.

At the time of filing the Beneficiary Status Certification Form with the Court, each Indian Tribe shall also **concurrently provide a copy of the Beneficiary Status Certification Form** to the Trustee in *electronic format* [via Intralinks portal] and by *mail* pursuant to Paragraph 6.0 and subparagraph 6.0.1 (subparagraph 2.1.2.1).

Each Indian Tribe that timely files such certifications shall be a “Certifying Entity.” Once a Certifying Entity has been deemed a Beneficiary hereunder via a NBD filed by the Trustee with the Court, it remains a Beneficiary for all future funding cycles.

**NOTE: Tribes that already filed an Appendix D-3 with the Court during the period after the filing deadline for the Second Funding Cycle (March 18, 2019) and prior to the date of this Notice (January 15, 2020) are eligible to participate in the Third Funding Cycle. These Tribes must submit a docket-stamped copy of their filing to the Trustee by or before **March 16, 2020** and they will be included in the Notice of Beneficiary Designation filed by the Trustee for the Third Funding Cycle.**

Designation of Beneficiaries

*Notice of Beneficiary Designation for the Third Funding Cycle*

The Trustee will determine and post a **Notice of Beneficiary Designation (NBD)** of each certifying Indian Tribe by the deadline set in subparagraph 4.0.2 for the third funding cycle, which is **May 15, 2020**.

The NBD determination shall be made in a manner consistent with the procedures set forth in subparagraphs 4.0.2, 4.0.2.1, and 4.0.2.3.

As provided in subparagraph 4.0.2.4, **once a Certifying Entity has been deemed a Beneficiary (via a NBD), it remains a Beneficiary for all future funding cycles.**

Designated Beneficiaries may participate in this third (and any future) funding cycle by submitting a **Designated Beneficiary’s Participation Notice** (Appendix D-6) and an **EMA**

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

**Certification Form** (Appendix D-4) *by the deadline* for each respective funding cycle as set forth in subparagraphs 5.0.5.3.3 and 5.0.5.3.5.

### **Technical Assistance for New and Previously-Designated Tribal Beneficiaries**

The Modified Indian Tribe Trust Agreement names the Institute for Tribal Environmental Professionals (“ITEP”) as the Technical Assistance Provider to assist both new and previously-Designated Beneficiary Indian Tribes in learning about the VW Settlement and how to access funds to pay for projects to replace eligible diesel vehicles. Interested Tribes are strongly encouraged to visit the ITEP web page at <http://www7.nau.edu/itep/main/volkswagensettlement/>.

### **Third Funding Cycle Key Dates**

For your convenience, here are some of the key deadlines for the Third Funding Cycle (which are subject to the full terms of the Modified Indian Tribe Trust):

<b>Date</b>	<b>Action</b>
1/20/2020	Determination of available funds for the Third Funding Cycle. In accordance with subparagraph 5.0.5.2.iii, the amount of available for the funds for the Third Funding Cycle is <b>\$16,523,180</b> .
<b>3/16/2020</b>	<b>Deadline</b> to file Appendix D-3 with Court and Trustee (subparagraph 5.0.5.1.b).
5/15/2020	Trustee files and provides Notice of Beneficiary Designation (subparagraph 4.0.2)
5/22/2020	Trustee posts notice on website re submittal of Designated Beneficiary’s Participation Notice (D-6).
<b>6/15/2020</b>	<b>Deadline</b> for Beneficiaries to submit Designated Beneficiary’s Participation Notice ( <b>Appendix D-6</b> ).
6/29/2020	<ul style="list-style-type: none"> <li>• Trustee applies per capita and pro rata Allocation (subparagraph 5.0.5.3.3).</li> <li>• Trustee posts Notice of Allocation Determination to Beneficiaries via Intralinks (5.0.5.3.3).</li> </ul>
<b>8/28/2020</b>	<b>Deadline</b> for Beneficiary submission (via Intralinks and hard copy) to Trustee of: <ul style="list-style-type: none"> <li>• Either: an <b>Appendix D-4</b> Beneficiary EMA Certification</li> <li>• Or: an <b>Appendix D-7</b> Beneficiary’s Election to Opt Out Form</li> </ul> <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).
5/12/2021	First Semi Annual Report from Beneficiaries due (paragraph 5.3).

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

**DATE:** January 15, 2020