

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

**Notice Of The Fourth 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 94 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 (on January 15, 2021)

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 **Fourth Funding Cycle** in accordance with Subparagraph 5.0.5.1.b of the final, fully-executed Environmental Mitigation Trust Agreement for Indian Tribe Trust Beneficiaries¹ (as modified on May 19, 2020) (the “Modified Indian Tribe Trust Agreement”) as filed with the United States District Judge for the Northern District of California, .

Fourth Funding Cycle Committed Funds

This Fourth Funding Cycle is intended to be the **final funding cycle for the Indian Tribe Trust**. However, if the Remainder Balance as determined as of February 28, 2022 in accordance with sub paragraph 5.0.5.3.4 of the Indian Tribe Trust is sufficient to conduct a Fifth Funding Cycle, then the Trustee will give notice of the Fifth Funding Cycle by March 30, 2022.

Pursuant to subparagraph 5.0.5.2.iv, all remaining assets in the Tribal Allocation Subaccount are committed to Beneficiaries for use in this cycle. The amount of available funds for the Fourth Funding Cycle is **\$18,163,395.37**.

Eligibility for the Fourth 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. 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** pursuant to Paragraph 6.0 and subparagraph 6.0.1.

¹ A searchable copy of the executed, Modified Indian Tribe Trust Agreement can be accessed online at https://www.vwenvironmentalmitigationtrust.com/modified_tribe_trust_agreement.

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In order to be eligible to participate in the Fourth Funding Cycle (or for a Fifth Funding Cycle, if one should occur) 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)**² 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**³ with the Court on May 17, 2019, which designated an additional 41 Indian Tribes as Beneficiaries. The Trustee filed a **third NBD**⁴ with the Court on March 15, 2020, designating an additional 24 Indian Tribes as Beneficiaries pursuant to the terms of the Modified Indian Tribe Trust Agreement. **These 94 Tribes previously designated as Beneficiaries via NBD do not need to file another Appendix D-3 to participate in this fourth 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 fourth funding cycle Appendix D-3 deadline is **March 16, 2021**.

At the time of filing the Beneficiary Status Certification Form with the Court, each Indian Tribe shall also **concurrently provide a copy of the Appendix D-3 Beneficiary Status Certification Form** to the Trustee in *electronic format* [via Intralinks⁵ portal] pursuant to Paragraph 6.0 (see also subparagraph 2.1.2.1).

Each Indian Tribe that timely files such certifications via Appendix D-3 (both with the Court and with the Trustee) shall be deemed a “Certifying Entity.” Once a Certifying Entity has been

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

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

⁴ This Notice can be accessed online at <https://www.vwenvironmentalmitigationtrust.com/TribeNBD3>.

⁵ Pursuant to subparagraph 3.1.2.3, the Trustee has maintains the Intralinks portal, as a secure method of internet-based communications for the use of the Trustee and the Beneficiaries.

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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 Third Funding Cycle (March 16, 2020) and prior to the date of this Notice (January 15, 2021) are eligible to participate in the Fourth Funding Cycle. These Tribes must submit a docket-stamped copy of their filing to the Trustee by or before **March 16, 2021 and they will be included in the Notice of Beneficiary Designation filed by the Trustee for the Fourth Funding Cycle.**

Establishing Intralinks Access

Pursuant to subparagraph 3.1.2.3, the Trustee has established and maintains an online client portal via Intralinks, with which to provide “a secure method of internet-based communications for the use of the Trustee and the Beneficiaries.” Tribes seeking Beneficiary Status must file an Officer’s Certificate for Intralinks Access with the Trustee. (This document must be notarized.)

To inquire about Intralinks portal access, please contact ITEP – the Technical Assistance Provider (see contact details at the end of this notice).

Designation of Beneficiaries

Notice of Beneficiary Designation for the Fourth 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 Fourth Funding Cycle, which is **May 17, 2021**.

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 Fourth (and a Fifth Funding Cycle, if one should occur) funding cycle by submitting a **Designated Beneficiary’s Participation Notice** (Appendix D-6) and an **EMA 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.

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Trustee Security Procedure Documents

Once Designated as a Beneficiary, any Tribe that has not already done so must execute and file with the Trustee via Intralinks the following Trustee Security Procedures documents:

- **Delegation of Authority and Incumbency Certificate** (“Incumbency”) - designates authorized individuals who manage the relationship with Trustee
 - File on Tribal Letterhead. (*Document must be notarized.*)
- **Exhibit A to the Delegation of Authority and Incumbency Certificate** (“Exhibit A”) - designates individuals authorized to Instruct and or Confirm payments on the Attachment A (*Funding Request and Direction* pages 5-6) of the approved Appendix D-4.
 - Form does not need to be on Tribal Letterhead. (*Document does not get notarized.*)

Only a Designated Beneficiary Tribe is permitted to file the Incumbency and Exhibit A with the Trustee. These documents need only be filed once with the Trustee but should be updated in the event of a personnel change.

- New Beneficiaries should use the period of **May 17, 2021 – June 15, 2021** to on completing, executing and filing the Incumbency and Exhibit A with Trustee via Intralinks.
- *Beneficiaries cannot be paid without executed copies of the Incumbency and Exhibit A on file with the Trustee.*
- Fillable PDF versions are available in “WT Security Procedures” folder inside of the “General Information” folder on the Documents tab in Intralinks.

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/> which contains **more information and contact details**.

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Fourth Funding Cycle Key Dates

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

Date	Party	Action	Location / Method	Trust Section
1/15/2021 – 3/12/2021	Certifying Entity	Request Intralinks Access: Tribes seeking Beneficiary Status must file an Officer's Certificate for Intralinks Access with the Trustee. <i>(This document must be notarized.)</i>	1. Via email to Trustee; or, 2. Via email to ITEP.	Subpara. 4.2.2
3/16/2021	Certifying Entity	Deadline for each Certifying Entity (a.k.a., prospective new Beneficiary Tribe) to file Appendix D-3.	1. File with Court 2. File with Trustee	Subpara. 5.0.5.1.b
5/17/2021	Trustee	Trustee publishes and files Notice of Beneficiary Designation.	1. Publish on Trust website 2. File with Court	Subpara. 4.0.2
5/17/2021 – 6/15/2021	Beneficiary	Trustee Security Procedures Documents: Newly Designated Beneficiary Tribes should work on completing, executing and filing these documents with Trustee.	Via Intralinks	Subpara. 4.2.2
5/24/2021	Trustee	Trustee publishes notice on website re submittal of Designated Beneficiary's Participation Notice (D-6).	Via Trust website	Subpara.
6/16/2021	Beneficiary	Deadline for Beneficiaries to submit Designated Beneficiary's Participation Notice (Appendix D-6).	Via Intralinks	Subpara.
6/30/2021	Trustee	<ul style="list-style-type: none"> • Trustee applies per capita and pro rata Allocation. • Trustee transmits Notice of Allocation Determination to participating Beneficiaries via Intralinks 	Via Intralinks	Subpara. 5.0.5.3.3
8/30/2021	Beneficiary	Deadline for Beneficiary submission to Trustee only of: <ul style="list-style-type: none"> • EITHER - Appendix D-4 Beneficiary EMA Certification; • OR - Appendix D-7 Beneficiary's Election to Opt-Out Form. 	Via Intralinks	Para. 5.2 Subpara. 5.0.5.3.3
10/29/2021	Trustee	Trustee transmits written determination of each Beneficiary's filed Appendix D-4 EMA Certification form (one of): <ul style="list-style-type: none"> (i) approval; (ii) denial; (iii) requesting modification; or (iv) requesting further info. 	Via Intralinks	Subpara. 5.2.16
11/15/2021	Trustee	Following Trustee Approval of D-4 for this Fourth Funding Cycle, disbursement of Funds to Beneficiaries ⁶ begins.	Via Wire Transfer	Subpara. 5.2.16.1
11/22/2021	Trustee	Trustee posts the final Allocation amounts for all participating Beneficiaries in the Fourth Funding cycle on the Indian Tribe Trust's public-facing website.	Via Trust website	Subpara. 5.0.5.3.3
5/16/2022	Beneficiary	Semi Annual Report from Beneficiaries due.	Via Intralinks	Para. 5.3

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

DATE: January 15, 2021

⁶ Subject to subparagraph 5.2.16.1, the Trustee will begin disbursement of funds to a Beneficiary within 15 Days of transmitting an Approval to said Beneficiary for their respective Appendix D-4 for this Fourth Funding Cycle. **Disbursement to any Beneficiary is subject to fulfillment of all requirements set forth in the Modified Indian Tribe Trust agreement and by the Trustee.** These requirements include (but are not limited to): Trustee final approval of a Beneficiary's EMA Certification Form (Appendix D-4); prior filing by the Beneficiary (and acceptance by the Trustee) of all documentation requested by the Trustee, including (but not limited to) the Trustee Security Procedures documents; and completion of a call back by the Trustee to an Authorized Confirmer of the Beneficiary Lead Agency, which Confirmer will verbally read back the wire instructions contained in the Attachment A of the Appendix D-4.