

1 On March 2, 2018, the Court issued an Order in this matter staying certain Trustee obligations
2 under the Environmental Mitigation Trust Agreement for Indian Tribe Beneficiaries (“Trust Agreement”
3 or “Trust”). Dkt. No. 4867. The Court also directed the United States and interested Beneficiaries to
4 meet and confer, in consultation with the Trustee, to discuss whether any adjustment to the Trust
5 Agreement’s allocation methodology is necessary to ensure that funds are distributed in a manner
6 consistent with the Trust’s purpose. *Id.* at 3. The Court ordered the United States to file a status report
7 within 60 Days. *Id.* Pursuant to the Court’s Order, the United States files this status report.
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9 **I. STEPS TAKEN TO DATE**

10 On March 16, 2018, the United States, through the Office of Tribal Justice (“OTJ”), sent a letter
11 to Indian Tribe Beneficiaries to participate in a discussion session on March 21, 2018, to present
12 possible approaches to allocation under the Trust Agreement.¹ The letter provided background
13 information, identified key issues for discussion, and set forth a schedule for Indian Tribes to provide
14 written comments. On March 21, OTJ hosted a telephonic discussion session with representatives from
15 approximately 40 Indian Tribes participating. On March 27, 2018, OTJ hosted a second discussion
16 session focused on specific allocation concepts identified during the initial discussion session and in
17 written comments received thereafter. Representatives from approximately 50 Indian Tribes
18 participated and once again provided input during the session, and subsequently submitted written
19 comments.
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22 After these two sessions, the United States reviewed the oral and written comments received to
23 consider appropriate modifications to the Trust Agreement that will yield an equitable allocation
24 formula that is consistent with the purpose of the Trust. The United States is currently working with the
25 Trustee to revise the Trust Agreement to reflect these proposed modifications.
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27 ¹ The Trust Agreement was filed with the Court on October 2, 2017. *United States v. Volkswagen AG*
28 *et al.*, Case No. 16-cv-295 (N.D. Cal.), Dkt. No. 51-2.

1 **II. NEXT STEPS**

2 The United States must further coordinate with the Trustee regarding how any changes to the
 3 equitable allocation formula may necessitate other related modifications throughout the Trust
 4 Agreement, and must obtain approval of the parties to the Trust Agreement. This process should be
 5 completed in approximately 30 days. Unless otherwise directed by the Court, by June 1, 2018, the
 6 United States will either lodge a proposed modification to the Trust Agreement pending receipt of
 7 comments from interested Indian Tribes, or will file another status report with the Court.²

9 Dated: May 1, 2018

Respectfully submitted,

10 For the United States of America

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25 ² On April 30, 2018, the United States received a letter from one Indian Tribe Beneficiary
 26 invoking informal dispute resolution under Paragraph 6.2 of the Trust Agreement and asserting that
 27 modification is not appropriate at this time. As set forth above, no modification has yet occurred.
 28 Moreover, material modifications to the Trust may be made only with the United States' consent and the
 Court's approval. Dkt. No. 51-2 at 37, ¶ 6.5. Further, the Trustee shall provide 30 days' notice of any
 modification to the Beneficiaries before such modification shall become effective. *Id.*