NOTICE OF SPOKANE TRIBE OF INDIANS SATISFACTION OF CAP-AND-TRADE REGULATIONS SECTION 95975(l) REQUIREMENTS FOR SPOKANE TRIBE OF INDIANS IMPROVED FOREST MANAGEMENT PROJECT

This NOTICE OF SPOKANE TRIBE OF INDIANS SATISFACTION OF CAP-AND-TRADE REGULATIONS SECTION 95975(l) REQUIREMENTS FOR SPOKANE TRIBE OF INDIANS IMPROVED FOREST MANAGEMENT PROJECT ("Notice"), dated as of the date of the last signature ("Effective Date"), is made by and between the Spokane Tribal Business Council of the Spokane Tribe of Indians ("Tribe") and the California Air Resources Board ("CARB").

WHEREAS, the Tribe has developed an Improved Forest Management Project under the Cap-and Trade regulations (Cal. Code Regs. § 95970 et seq.) and Compliance Offset Protocol for U.S. Forest Projects (adopted June 25, 2015);

WHEREAS, pursuant to the Cap-and Trade regulations section 95975(l)(1), the Tribe has entered into a limited waiver of sovereign immunity with CARB with respect to the Tribe's Improved Forest Management Project by Resolution No. 2018-182, dated as of March 15, 2018;

WHEREAS, pursuant to the Cap-and Trade regulations section 95975(l)(2), the Tribe has provided CARB with documentation demonstrating that this limited waiver of sovereign immunity has been properly adopted in accordance with the Tribe's Constitution or other organic law, by-laws and ordinances, and applicable federal laws;

WHEREAS, pursuant to the Cap-and Trade regulations section 95975(l)(3), the Tribe has provided CARB with proof of federal approval of the Tribe's participation in the requirements of the Cap-and-Trade Program, or documentation from the U.S. Department of the Interior, Bureau of Indian Affairs that federal approval is not required for the Improved Forest Management Project; and

WHEREAS, the Tribe and CARB wish to provide notice to the Offset Public Registries, the public, and any other interested parties that the Tribe has satisfied the requirements of Cap-and-Trade regulations section 95975(l) for the Improved Forest Management Project.

NOW, THEREFORE, in consideration of the mutual covenants and terms set forth in Resolution No. 2018-184 and this Notice, the Tribe and CARB agree that all requirements of Cap-and-Trade regulations section 95975(l) for the Tribe's Improved Forest Management Project have been satisfied.

IN WITNESS WHEREOF, the Tribe and CARB have executed and acknowledged this Notice as of the Effective Date.

SPOKANE TRIBE OF INDIANS

By: Carol Evans

Name: Carol Evans

Title: Chairwoman, Spokane Tribe of Indians

Date: August 22, 2018

CALIFORNIA AIR RESOURCES BOARD

By: R.W.C.

Name: Richard W. Corey

Title: Executive Officer

Date: 8/27/2018

RESOLUTION
Spokane Tribal Resolution 2018-182

APPROVING A LIMITED WAIVER OF THE TRIBE'S SOVEREIGN IMMUNITY TO THE CALIFORNIA AIR RESOURCES BOARD

WHEREAS, the Spokane Tribal Business Council ("Tribal Council") is the governing body of the Spokane Tribe of Indians by authority of the Constitution of the Spokane Tribe; and

WHEREAS, the Spokane Tribal Business Council is charged with the duty by the Tribe's Constitution to administer the affairs and assets of the Tribe including Tribal lands, funds, minerals, timber, water rights and other resources under appropriate contracts, leases, permits, loans or sale agreements; and

WHEREAS, the Tribal Council has determined to develop an Improved Forest Management Project ("Project") to generate carbon offset credits which can be sold within the cap and trade program administered by the California Air Resources Board ("CARB"); and

NOW THEREFORE, BE IT HEREBY RESOLVED, that the Tribal Council, does hereby grant a limited waiver of the Spokane Tribe of Indians' sovereign immunity for the limited purpose of satisfying the requirements of the California Program as follows:

The Spokane Tribe of Indians hereby expressly waives its sovereign immunity from suit with respect to any action in law or in equity commenced by the State of California Air Resource Board to enforce the obligations of the Tribe with respect to its participation in the Cap and Trade Program, only for the minimum duration required in the Compliance Offset Protocols for U.S. Forest Projects (adopted June 25, 2015), and irrespective of the form of relief sought, whether monetary or otherwise, including submission or replacement, as applicable, of valid CARB offset credits, or other approved compliance instruments as required by the Cap and Trade Program, including sections 95983(c) and 95985. The Spokane Tribe of Indians, for the purposes of this limited waiver, shall be treated in the same manner as a California public entity under California Government Code section 818 and 818.8. The Tribe consents to jurisdiction and venue in the courts of the State of California for the limited purposes expressed herein and does not waive any aspect of its sovereign immunity with respect to actions commenced by any entity whatsoever other than the State of California Air Resource Board.

BE IT FURTHER RESOLVED, that nothing about the Tribe's Project, including without limitation, any attestations to the CARB, shall confer any other agency of the State of California or any other state government, or any state, county, or other subdivision, any general civil regulatory authority over the Tribe, the Tribe's Reservation, including without limitation those acres and resources that the Tribal Council has referenced as part of the Project.

BE IT FINALLY RESOLVED, that the Tribal Council hereby authorizes the Chairwoman or her designee(s) to execute any and all documents necessary to effectuate the intent of this Resolution.

Certification

The foregoing was duly enacted by the Spokane Tribal Business Council on the 15th day of March, 2018, by the vote of 4 for 1 against and 0 abstain under authority contained in Article VIII of the Constitution of the Spokane Indians ratified by the Spokane Tribe on November 22, 1980.

Carol Evans

Chairwoman
Spokane Tribal Business Council

	Yes	No	Abstain	Absent
CE	x			
DB	x			
GA	x			
GF		x		
DK	x			

United States Department of the Interior
Bureau of Indian Affairs
Northwest Regional Office
911 NE 11th Avenue
Portland, Oregon 97232-4169

AUG 10 2018

In Reply Refer To:
Northwest Regional Director

The Honorable Carol Evans
Spokane Tribe of Indians
Post Office Box 100
Wellpinit, Washington 99040

Dear Chairwoman Evans:

This letter responds to your letter dated March 15, 2018, requesting that the Bureau of Indian Affairs (Bureau) determine whether the Spokane Tribe of Indians' Improved Forestry Management Project (Project), initiated pursuant to the California Cap and Trade Program, requires Secretarial approval under 25 U.S.C. Section 81. The California Air Resources Board (ARB) requires that the Bureau make a Section 81 determination before any Project may be registered with the State of California. 17 Cal. Code Regs. § 95975(l)(3).

We have reviewed the materials you submitted concerning the Project and consulted with the Solicitor's Office and have determined that the Project, as you have described it, does not require Secretarial approval under Section 81. Secretarial approval is required for any and all contracts and agreements entered into by an Indian tribe that encumber tribal lands for a period of seven years or more and that . . . convey exclusive or nearly exclusive proprietary control over tribal land. 25 C.F.R. 84.003; 84.004 (e). While the life of the Project is longer than seven years, the Project does not create an encumbrance on Indian lands nor does it give exclusive or proprietary control to a third party. In addition, the Project appears to comply with the Tribe's Forest Management Plan (FMP) and amendment of the FMP is not required to participate in the Program.

The Bureau confirms that the Spokane Tribe's Improved Forestry Management Project does not require Secretarial approval under 25 U.S.C. Section 81 to register the Project with the ARB and participate in the California Cap and Trade Program.

Sincerely,

ACTING Bodie Shaw
Northwest Regional Director