



Inter-Tribal Council of the Five Civilized Tribes



April 28, 2020

The Honorable Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Mnuchin:

The undersigned national and regional tribal organizations, broadly representing Indian Country, write to urge that the U.S. Department of the Treasury (Treasury) not appeal the recent opinion rendered by the Honorable Judge Amit Mehta of the United States District Court for the District of Columbia (DC District Court) (Case nos: 20-cv-01002, 20-cv-01059, 20-cv—1079).

Instead, we urge that Treasury exercise its authority under Title V, Section 5001 (Title V) of the recently passed Coronavirus Aid, Relief, and Economic Security (CARES) Act, and immediately disburse the entire \$8,000,000,000 Congress set aside for federally recognized Indian Tribes, as individually identified, on the List of Federally Recognized Indian Tribes.¹ In accordance with this action, we further urge the immediate rescission of Treasury’s April 23rd guidance regarding its incorrect determination that Alaska Native Corporations (ANCs) are

¹ See Dept. of Interior, *Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs*, 85 Fed. Reg. 5,462 (Jan. 30, 2020).

eligible to be direct recipients under Title V.

In the CARES Act, Congress, and the President of the United States, acknowledged an immediate need to stabilize state, local, and tribal governments with emergency government relief funding. Any delay in getting these funds to eligible governing bodies would not only defy the clear congressional mandate to disburse such funds swiftly, it will seriously harm the recognized governments and the citizens served by such governments.

The recent decision of the DC District Court made it clear that Congress, in the CARES Act, intended for all federally recognized tribes, included in both the definitions of Indian Tribe in the Indian Self Determination and Education Assistance Act of 1975 (P.L. 93-638) and the Federally Recognized Indian Tribe List Act (P.L. 103-454), to be those “recognized” tribal governing bodies qualified to receive CARES Act government relief funds.

The quick and immediate disbursement of COVID-19 government relief funding to these Indian Tribes with “recognized governing bodies,” would address the substantial needs of not only the tribes in the Lower 48 states, but also the 229 federally recognized tribes in the State of Alaska. Any notion that Alaska Natives would not be appropriately funded is totally without merit, as it is fully within the discretion of the Secretary to determine the methodology of government relief funding that is fair to all federally recognized Indian Tribes, which as noted, includes 229 in the State of Alaska.

In conclusion, each of the undersigned organizations trusts that Treasury takes regard of the compelling argument made by Judge Mehta with respect to eligible tribal governments under the CARES Act, and not pursue an appeal. If Congress desires to fund corporations that may serve indigenous populations, it is free to expressly state as such in future legislation designed to address the impacts of this pandemic. But as rendered in the DC District Court opinion, the CARES Act is not the vehicle for such relief. We fully recognize and understand the unique role ANCs play in Alaska to serve Alaska Natives, but unlike Alaska Native villages and Tribal Nations appearing on the List, they are not governments. Indian Country must always stand strong to protect and preserve the political and legal standing of what it means to be an Indian Tribe under the Constitution. We urge that Treasury act to uphold this important pillar of federal Indian law, and the special government-to-government relationship that the United States has with federally recognized Indian Tribes. We thank you for your time and consideration of this critical issue for Indian Country, and please feel free to reach out to us with any further questions or thoughts.

Sincerely,

Affiliated Tribes of Northwest Indians

USET Sovereignty Protection Fund

California Nations Indian Gaming Association

National Congress of American Indians

Inter Tribal Association of Arizona

Native American Finance Officers Association

Inter-Tribal Council of the Five Civilized Tribes

Tribal Alliance of Sovereign Indian Nations

Midwest Alliance of Sovereign Tribes

National Indian Gaming Association