

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AGUA CALIENTE BAND OF
CAHUILLA INDIANS, *et al*,

Plaintiffs,

V.

Case No. 1:20-cv-01136 (APM)

STEVEN MNUCHIN, in his official
Capacity as the Secretary of the United
States Department of Treasury,

Defendant.

DECLARATION OF MAX ROSS

I, Max Ross, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Chief Executive Officer of the Agua Caliente Band of Cahuilla Indians (“Agua Caliente” or the “Tribe”).
2. The statements herein are based on my own personal knowledge obtained within the scope of my role as Chief Executive Officer of Agua Caliente, and I could testify competently to them if called upon to do so.
3. In April 2020, on behalf of Agua Caliente, I timely submitted the information which the United States Treasury (Treasury) requested from tribal governments in order to receive CARES Act emergency relief funding.
4. With respect to employees, as Treasury requested, I submitted the total number of persons Agua Caliente employed as of January 1, 2020.

5. With respect to expenditures, as Treasury requested, I submitted Agua Caliente's total expenditures for the most recently completed fiscal year.

6. With respect to population, as Treasury requested, I submitted Agua Caliente's number of tribal members as of January 1, 2020.

7. When I submitted this information to Treasury, the Tribal Chairman was required to make and did make the following certification: "I hereby certify I am authorized by the governing body of the Indian Tribe described above to submit the information included with this form and that it is true and correct to the best of my knowledge. I further understand that anyone who knowingly and willfully makes a false statement to the United States Government may be subject to criminal prosecution under the False Statements Accountability Act of 1996, 18 U.S.C. 1001."

8. On May 6, 2020, Agua Caliente received a payment from Treasury, which I understand is the payment Treasury represents that it made from 60% of the CARES Act funding set aside for tribal governments and is based on the Tribe's population only. Agua Caliente received a payment of \$1,407,382.64 based on Treasury's formula, which uses the American Indian and Alaska Native population count as determined by Census data of each tribe.¹

9. Treasury has not yet paid Agua Caliente the CARES Act funds Agua Caliente is entitled to receive based upon its number of employees and expenditures. Because of the number of Agua Caliente employees and expenditures in comparison with other tribes, Agua Caliente expects that this payment will be far greater than the one based on population.

10. Agua Caliente employs over 2,400 people. As a result of the COVID-19 epidemic, Agua Caliente closed all of its business enterprises, including the Agua Caliente Casino Palm

¹ Maybe cite to FAQs they posted – page 2, text and FN6

Springs, Agua Caliente Casino Rancho Mirage. As with most tribes, Agua Caliente does not have a substantial tax base. Accordingly, the revenues from these enterprises are essential to fund the tribal government and provide essential governmental services to tribal members. In anticipation of timely receiving CARES Act emergency funding, Agua Caliente has continued to pay many employees to stay at home in conformity with stay at home orders in response to the COVID-19 pandemic.


11. The May 6 payment from Treasury comprises a very small percentage of Agua Caliente's monthly expenditures.

12. It is impossible for Agua Caliente to plan for the future provision of essential governmental services, including those implemented in response to the COVID-19 crisis, and regarding how long it can maintain its payroll without knowing how much more funding it will receive in emergency relief under the CARES Act and when those payments will be forthcoming.

13. If Agua Caliente does not receive the emergency relief funding provided for by the CARES Act immediately, it will curtail additional essential governmental services and lay off or furlough the overwhelming majority of its employees.

14. Each day that goes by without the funding the crisis worsens and is another day that the tribal government must decide what services to curtail and which employees to not provide funds.

Executed this 7th day of May, 2020.



Max Ross, C.E.O.
Agua Caliente Band of Cahuilla Indians