



Saint Regis Mohawk Tribe

Chief Michael Conners
Chief Eric Thompson
Chief Beverly Cook
Sub-Chief Agnes Jacobs
Sub-Chief Benjamin Herne
Sub-Chief Kenneth Jock

Onerahtókha | April 20, 2020

The Honorable David L. Bernhardt
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

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

Re: To Ensure that the Coronavirus Relief Fund is Disbursed to Tribal Governments and Demanding the Recusal of Assistant Secretary for Indian Affairs Tara Sweeney

Tetsikhinonhwerá:ton | Greetings Secretary Mnuchin and Secretary Bernhardt,

We, the Tribal Council of the Saint Regis Mohawk Tribe, are writing to express our concern that the Department of the Treasury and the Department of the Interior intend to disburse the limited funds that have been appropriated in Title V, Section 5001 (Title V) of the recently passed Coronavirus Aid, Relief, and Economic Security (CARES) Act to Alaska regional or village for-profit corporations. This intention is made clear by the request on the Funding Certification form that those entities provide information on fee land and number of shareholders. The Coronavirus Relief Fund (CRF) is to be disbursed directly and exclusively to Tribal governments, as understood and reflected within the DOI Federally-Recognized Tribes List, and not to wealthy for profit non-governmental corporations that are themselves made up of Alaska Native Tribes. The reading of the law to include these entities is an egregious abuse of discretion.

Title V, Section 5001 of the CARES Act amended the Social Security Act to add a new Title VI, Section 601, establishing the CRF. Congress' establishment of the CRF appropriates "\$8,000,000,000 . . . for making payments to Tribal governments." "Tribal government" is defined at Section 601(g) as "the recognized governing body of an Indian Tribe." By referring solely to the recognized governing body of an Indian Tribe, the Act excludes Alaska regional or village for-profit corporations for distribution under Title VI. Congress requires the Secretary of the Interior annually to "publish in the Federal Register a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians" (List of Federally Recognized Indian Tribes).¹ Alaska Native corporations are not on the List of Federally Recognized Indian Tribes and can in no way

¹ Federally Recognized Tribe List Act of 1994, Pub. L. 103-454 (108 Stat. 4791, 4792) (1994).

claim to be “tribal government.”²

Rather, they are for-profit corporate entities incorporated under Alaska state law, governed by corporate boards of directors and managed by company executives. If Congress had intended that “Indian Tribes” as defined in the Indian Self-Determination and Education Assistance Act (“ISDEAA”) (25 U.S.C. § 5304(e)) be used under Title V, it could have said so. Instead, it specifically defined tribal governments separately and without reference to the ISDEAA. This is correct because while Alaska Native Corporations have been granted limited authority to contract under the ISDEAA, they are not tribal governments. Alaska Native Villages are the only federally recognized tribes in Alaska and we support their participation in the CRF.

Any decision by Treasury to count Alaska regional and village corporations will mean that Alaska will claim the bulk of the Title V funds because the Alaska Native Villages, and the village corporations and the Alaska Regional Corporations will all be claiming funds for the same group of individuals. ANCSA Corporation do not have Tribal citizens, but instead have shareholders—most of which are Tribal citizens of their own Tribal governments where they are enrolled. If Treasury interprets Alaska regional and village corporations as eligible for CRF disbursements intended for Tribal governments, many Alaska Native Tribal citizens will be counted for CRF disbursement purposes as shareholders of their respective Alaska regional or village corporation *and* as Tribal citizens of their Tribal governments.

The inequity of including these corporations can be found in the revenue statistics of these for-profit corporations, many of whom have significant energy businesses and investment portfolios. For 2018, the 12 ANCs generated \$10.5 billion in revenue combined, more money that has been allocated for all of the CRF and have a combined statewide payroll of more than \$950 million.³ For example, it has been reported that Chugach Alaska Corporation generated \$949 million in revenue in 2018. *Id.* It also has been reported that Arctic Slope Regional Corporation, of which Assistant Secretary of Indian Affairs Tara Sweeney is a shareholder, has more than 13,000 shareholders and had \$3.4 billion in revenue in 2018. *Id.* It is described as, “The ASRC family of companies extends into the professional fields of engineering, venture capital and financial management, oil and gas support services, petroleum refining and distribution, aerospace engineering, consulting, civil construction, and communications.” *Id.* As reported, “In late 2017, the corporation marked another milestone by surpassing \$1 billion in dividend payments to shareholders since the corporation was formed in 1972.”⁴

In addition, the Certification Form asks for the inclusion and identification of lands that have been selected pursuant to the Alaska Native Claims Settlement Act. “Native corporations are the largest private landowners in Alaska, with title to 44 million acres of selected land throughout the state.”⁵ Allowing these non-governmental lands to be counted not including mineral rights (which we understand has been the subject of discussions between the Assistant Secretary and Alaska groups⁶), would overwhelm the fund.

The CRF is a limited resource and its benefits should be disbursed fairly and not in a way that skews the allocation because individuals are counted multiple times and ANCSA lands, which are not government

² 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).

³ Report of the Resource Development Council for Alaska, Inc., <https://www.akrdc.org/alaska-native-corporations>.

⁴ <https://www.akbizmag.com/industry/alaska-native/alaska-native-regional-corporation-review-2/>

⁵ See Note 3

⁶ <https://www.politico.com/news/2020/04/16/trump-indian-affairs-funds-191622>

lands, are counted. For these reasons, Treasury must follow the law, as enacted, and disburse the CRF to only Tribal governments, as recognized under the U.S. Constitution.


If ANC's are recognized as government entities, this will set a dangerous precedent that will have greater negative implications beyond the CARES Act; including, but not limited to, the delivery and fulfillment of trust and treaty obligations across the federal government. The implication that these entities are entitled to equal treatment as tribal governments is contrary to the trust and treaty obligations of the United States and diminishes the government-to-government relationship. It is an affront to our Tribal sovereignty.

During her Senate confirmation process, Assistant Secretary Sweeney testified, “[f]or those who may fear that I am too Alaska-centric or I don’t have lower 48 experience, I want to dispel that myth. . . . I am committed to working very hard for Indian Country . . . and for Native self-determination, regardless of geography.”⁷ In fact, these efforts to advocate for Alaska Native Corporations, including holding conference calls with Alaska only groups and providing advice on funding,⁸ show that Assistant Secretary Sweeney is improperly and without solid legal ground putting Alaska first. We hereby demand that at minimum Assistant Secretary Sweeney recuse herself from all actions and decision-making related to the decision regarding the distribution of Coronavirus Relief Funds.


We further demand that the statute be construed as written—only “Tribal governments” as defined under Title V of the CARES Act are entitled to participate in funding from the CRF.

Skèn:nen | In Peace,

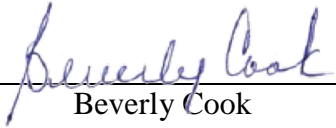
SAINT REGIS MOHAWK TRIBAL COUNCIL



Michael Connors
Tribal Chief



Eric Thompson
Tribal Chief



Beverly Cook
Tribal Chief

⁷ Nomination of Tara Mac Lean Sweeney of Alaska to serve as the Assistant Secretary for Indian Affairs at the Department of the Interior: Hearing before the Senate Committee on Indian Affairs, 115 Cong. (2018) (Statement of Tara Sweeney).

⁸ <https://www.politico.com/news/2020/04/16/trump-indian-affairs-funds-191622>