



April 13, 2020

The Honorable Steven T. Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable David Bernhardt
Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Mnuchin and Secretary Bernhardt:

Thank you for this critical assistance during this national emergency. I can honestly say I never expected we would be living in a world-wide pandemic and having to do everything in our power to shore up our Native health system, seek testing, personal protective supplies and equipment or coordinating with so many people of good will who were similarly working to protect their people and respond to the crisis. We are grateful for the resources that the Congress intended to get to work right now.

I write as the President of the Alaska Federation of Natives to comment on the \$8 billion Congress tasked you with distributing to tribes pursuant to Section 5001 of the CARES Act. The Alaska Federation of Natives represents over 150,000 Alaska Natives who together make up nearly 20 percent of our State. Alaska Natives including Indians, Eskimos, and Aleuts are among the largest group of Native people in the country. The AFN board is comprised of tribes, Alaska Native Corporations, non-profits and tribal consortiums.

On Saturday night, the National Congress of American Indians (NCAI) filed comments arguing the certain Alaska Native tribes were not included in the CARES Act and asking you to exclude them. Specifically, they assert that Alaska Native Corporations, both Regional

Corporations serving 12 regions in our state and over 200 Village Corporations serving individual Native villages should be cut out of the funding stream to combat the coronavirus pandemic. Not only is their legal analysis fatally flawed, relying on a tortured interpretation of the CARE Act instead of the actual statutory language, but it does not reflect Congressional intent. It was the Alaska Congressional Delegation that led the fight to earmark \$8 billion for tribes – and they certainly did not intend to exclude some of Alaska’s tribes. In fact, the CARES Act uses a definition of “tribe” that SPECIFICALLY includes “Alaska Native Villages or Regional or Village Corporations.”

Now is not the time to get into petty squabbles over resources. Everyone needs help. Our simple request is that you just follow the law as it is written and include our Alaska Native Corporations as required by law in the distribution formula. The plain meaning of the law makes clear that Alaska Native Corporations, both regional and village corporations, are eligible to receive a portion of the \$8 billion set aside for “tribal governments” which you, as the Secretary are tasked with distributing. I felt it was necessary for us to clarify the law and Congressional intent in advance of the comment deadline Monday. Note that I have also consulted with the Alaska Congressional Delegation who helped draft the tribal set-aside to confirm that they intended that Alaska Native corporations be included – which is why the language specifically includes Alaska Native corporations.

Sec. 5001 of the CARES Act amends the Social Security Act by adding a new Title VI titled “Coronavirus Relief Fund”. Section 601(a)(2)(B) of the amendment sets aside \$8 billion for you to make payments to “tribal governments” to assist in the virus response:

“(2) RESERVATION OF FUNDS.—Of the amount appropriated under paragraph (1) [\$150,000,000,000], **the Secretary shall reserve---**

“(B) \$8,000,000,000 of such amount for making payments to Tribal governments.”

The legal issue is how is the term “**tribal governments**” is defined. Section 601(g) outlining “DEFINITIONS” provides the answer. Paragraph (1) provides that:

“the term “**Indian Tribe**” has the meaning given that term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 USC 5304(e)).

Section 5304(e) of the Indian Self Determination and Education Assistance Act which Congressman Don Young (R-AK) helped draft notes that:

“**Indian tribe**’ means any Indian tribe, band, nation, or other organized group or community, **including any Alaska Native village OR regional OR village corporation** as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 USC 1601 et. seq.) which is recognized as eligible for the



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special programs and services provided by the United States to Indians because of their status as Indians.”

The CARES Act is unambiguous: **Alaska Native villages, Alaska Native Regional Corporations, and Alaska Native Village Corporations are “tribes” under the CARES Act.** But there is one more piece of the analysis and that is how “tribal government” is defined since “the Secretary SHALL reserve \$8,000,000,000...for making payments to **Tribal governments**”.

Section 601(g)(5) defines “**Tribal government**” as “the **recognized governing body** of an **Indian Tribe** which we already established includes “any Alaska Native Village, Alaska Regional, and Alaska Village Corporation” under the Indian Self Determination and Education Act.

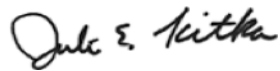
In the case of Alaska Regional Corporations, Congress declared in Section 7(g) of the Alaska Native Claims Settlement Act (P.L. 92-203) that “**the management of the Regional Corporation shall be vested in a board of directors.**” Thus the “**recognized governing body**” of an Alaska regional corporation – a tribe under the CARES Act – is “its board of directors”. In the case of an Alaska Village Corporation, Congress similarly recognized its board of directors as its governing body as contemplated by the CARES Act.

Mr. Secretary, the law is clear that Alaska Native Corporations are to be included in the distribution of the \$8 billion set aside for tribes. The Alaska Delegation that helped draft the language was clear in its intent and used specific and clear language. Our ask is simple: follow the law. We have many challenges in Alaska, a land mass which is two and half size the State of Texas, and that has very underdeveloped infrastructure, critical water and sanitation needs, transportation, communication, housing and other needs. Nothing will be expended or claimed, that would not be allowed by your guidance and the law.

Further, we bring to your attention the role of the Alaska Native health corporations as health arms of our tribes. They play a critical role and deliver health care as their mission. They are diagnosing and treating COVID patients, as you are reading this letter, and are incurring expenses on a daily basis. During this health emergency, please ensure that their COVID 19 expenses are allowable; and further consider setting up a Task Force of both public and private sectors to handle supply chains for COVID 19 rapid testing; and a COVID 19 Recovery Corps jobs program to perform tasks that nonimmune individuals cannot safely do and get the economy going. Rapid testing can assist in determining when it is safe to reopen our economy. Alaska Natives have been major contributors to the economy, and we want to continue to build an economic base for our people and contribute to the larger society.

We appreciate all you are doing to help guide our nation through this pandemic. We applaud your efforts and are particularly moved by your willingness to look out for the most vulnerable in our society as you shoulder the responsibility for getting our economy back on track. Please know that Alaska Natives across our state are grateful for all you are doing and pray for you and your family as you lead us through these challenging times.

Sincerely,

A handwritten signature in black ink that reads "Julie E. Kitka". The signature is written in a cursive style with a large initial 'J' and 'K'.

Julie Kitka
President