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UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

CONFEDERATED TRIBES OF THE CHEHALIS  
RESERVATION, et al.

Plaintiffs,

v.

STEVEN MNUCHIN, SECRETARY, UNITED  
STATES DEPARTMENT OF THE TREASURY

Defendant.

Case No.: 1:20-cv-01002-APM

CHEYENNE RIVER SIOUX TRIBE, et al.

Plaintiffs,

v.

STEVEN MNUCHIN, SECRETARY, UNITED  
STATES DEPARTMENT OF THE TREASURY

Defendant.

Case No. 1:20-cv-01059-APM

UTE TRIBE OF THE Uintah and Ouray  
RESERVATION

Plaintiff,

v.

STEVEN MNUCHIN, SECRETARY, UNITED  
STATES DEPARTMENT OF THE TREASURY

Defendant.

Case No. 1:20-cv-01070-APM

**CONSOLIDATED CASES**

**DECLARATION OF CHAIRMAN HAROLD C. FRAZIER IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT**

1 I, Harold C. Frazier, hereby declare:

2 1. My name is Harold C. Frazier and I am Chairman of the Cheyenne River Sioux Tribe  
3 (“CRST”).

4 2. I was first elected Chairman in 2002 and I held that office until 2006. I was re-elected as  
5 Chairman in 2014 and have remained in office since then.

6 3. I participated in the consultation and commenting process between Tribal leaders and the  
7 Department of the Treasury regarding the distribution of the \$8 billion dollar allocation for  
8 Tribal governments. There was no discussion or indication that ANCs would be included as  
9 “tribal governments” in the Department of the Treasury’s interpretation of Title V.

10 4. On April 9th, 2020, I and several other Tribal leaders learned of a letter to Secretary  
11 Mnuchin from the Alaska Congressional delegation and several ANCs asking for ANC inclusion  
12 in the Tribal relief fund. The Cheyenne River Sioux Tribe and several other Tribes have since  
13 filed suit against the Secretary of the Treasury to prevent the distribution of CARES Act Title V  
14 Tribal government funding to ANCs, which are not Tribal governments.

15 5. The Cheyenne River Reservation consists of 2,833,158 acres of trust land in an area close  
16 to 60 miles long and 90 miles wide. Of the Tribe’s 21, 965 enrolled members, about 10,000 of  
17 them live on the Reservation in 22 scattered communities.

18 6. The Cheyenne River Sioux Tribe is governed by a Constitution and By-Laws (“CRST  
19 Const.”) first adopted by the Tribe on December 27, 1935 and approved by the Secretary of the  
20 Interior pursuant to 25 U.S.C. § 5123, and as most recently amended and approved by the  
21 Secretary of the Interior on July 17, 1992. The Constitution and By-Laws of the Cheyenne River  
22 Sioux Tribe are attached hereto as **Exhibit A**.

23 7. In its Constitution and By-Laws, the Cheyenne River Sioux Tribe has set forth the  
24 various rights, privileges, and immunities of the Cheyenne River Sioux Tribal government. Our  
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1 Constitution and By-Laws created the present-day Tribal governing body, which includes the  
2 elected Tribal Chairman, Tribal Secretary, Tribal Treasurer, and fifteen Tribal Councilmen.  
3 CRST Const. Art. III.

4 8. The Tribal Constitution and By-Laws also set forth the Tribe's powers of self-  
5 government, delegating to the Tribal Council and Executive Committee governmental powers  
6 that include, but are not limited to: (1) government-to-government interaction with state, federal,  
7 and local governments; (2) consultation with the United States concerning appropriations set  
8 aside for Tribal governments; (3) disposition of Tribal trust land; (4) powers to appropriate and  
9 distribute funds within Tribal control; (5) power to remove or exclude nonmembers from Tribal  
10 territory, enactment of ordinances "for the purpose of safe-guarding the peace and safety of  
11 residents of the Cheyenne River Indian Reservation;" and (6) power to establish courts to enforce  
12 civil and criminal laws of the Cheyenne River Sioux Tribe." CRST Const. Art. IV.

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14 9. The people of the Cheyenne River Sioux Reservation are at particular risk from COVID-  
15 19 in light of the endemic poverty, related health disparities, and abysmal health and safety  
16 infrastructure. The Cheyenne River Sioux Reservation is the size of the state of Connecticut.  
17 The Reservation has approximately 10,000 residents. The Tribe has just one hospital with a  
18 mere 8 inpatient hospital beds. The nearest medical facility that can treat higher acuity patients  
19 is three hours away. A COVID-19 outbreak on our Reservation would be a catastrophe.

20 10. There is currently no statewide stay-at-home order in South Dakota, nor are there any  
21 active local stay-at-home orders that apply to all citizens in any non-Tribal areas.

22 11. In light of these circumstances, the Cheyenne River Sioux Tribe's Executive Committee  
23 has been taking measures since early March to protect the residents of our Reservation—  
24 members and nonmembers alike.  
25

1 12. Pursuant to our Constitutional powers of self-government and inherent Tribal  
2 sovereignty, the Cheyenne River Sioux Tribal government declared a State of Emergency and  
3 took our first measures to combat COVID-19 on March 13, 2020. The Declaration activated our  
4 Emergency Command Center, as well as other measures within the Tribe's sovereign and  
5 governmental authority including school and government office closures; a Reservation-wide  
6 travel ban for all government employees; and restrictions on Reservation-based organizations  
7 bringing non-resident individuals and organizations onto the Reservation. The Declaration of  
8 State of Emergency is attached hereto as **Exhibit B**.

9 13. Our Command Center is the central organizing point for essential Tribal resources and  
10 services during times of crisis and is providing such services during the current pandemic. The  
11 Command Center also operates as a Reservation-wide point of contact for the public and other  
12 governments during this crisis.

13 14. One of the mission critical uses of the Command Center is ordering and stockpiling  
14 personal protective equipment (PPE), as well as operating an emergency food bank that was  
15 created in response to increased need.

16 15. The Command Center is also where approved travel permits can be picked up.

17 16. On April 1, 2020, the Cheyenne River Sioux Tribal government issued the first  
18 Emergency Executive Order related to the COVID-19 pandemic. This order implemented the  
19 first health and safety checkpoint plan consistent with the Tribe's jurisdiction over roads and  
20 lands within its territory. The First Emergency Executive Order is attached hereto as **Exhibit C**.

21 17. Under that Order, every vehicle not simply passing through the Cheyenne River Sioux  
22 Reservation must complete a travel plan form that includes information such as the names and  
23 addresses of vehicle occupants, destination, purpose of travel, dates of travel, expected stops,  
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1 whether any occupants have experienced any COVID-like symptoms or being in a hotspot area,  
2 and other questions. This information enables our Command Center to be able to perform  
3 contact tracing as necessary.

4 18. Our checkpoint and contact tracing system has been so successful that we have had only  
5 one reported case of COVID-19 on our Reservation, and that person has now recovered and is  
6 home from the hospital.

7 19. On April 8, 2020, the Cheyenne River Sioux Tribal government passed two additional  
8 Emergency Executive Orders. Order #02.2-2020-CR—the Second Emergency Executive  
9 Order—instituted mandatory 14-day quarantines for both member and nonmember residents who  
10 are infected or are suspected to be infected. *See* Emergency Executive Order #02.2-2020-CR at  
11 2-7, attached hereto as **Exhibit D**.

12 20. The Third Order, #02.3-2020-CR, issued a Stay-at-Home Recommendation. This Order  
13 further prohibited all gatherings of ten or more people outside of a single household, which  
14 applies to both members and nonmembers of the Tribe as a function of the Tribe’s civil  
15 jurisdiction. The Third Order likewise ordered closed all non-essential businesses, including  
16 “amusement rides, museums, arcades, vending machines, playgrounds, movie and other theaters,  
17 bars, country clubs or social clubs. The Order also restricted travel within, into, and out of the  
18 Reservation to only essential activities. Only essential government employees who are not  
19 vulnerable (high-risk) are still working. *See* Emergency Executive Order #02.3-2020-CR at 2-5  
20 attached hereto as **Exhibit E**.

21 21. On April 30th, 2020, the Cheyenne River Sioux Tribal government passed the fifth  
22 Emergency Executive Order, attached hereto as **Exhibit F**. This new order included the  
23 following Level 3 Actions from our COVID-19 Emergency Response Plan:  
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1 • A mandatory stay-at-home order for all persons, including both members and  
2 nonmembers, currently residing (either temporarily or permanently) within the Reservation.  
3 “Essential activities” include essential health and safety tasks; obtaining and delivering necessary  
4 services and supplies; outdoor activity; essential businesses and operations, including healthcare  
5 and public health operations, essential infrastructure such as road repair, essential governmental  
6 functions for tribal, local, state, federal government personnel; caring for others; and other  
7 essential jobs such as farming, food retail, ranching, gas stations, etc. *See Exhibit E.*

8 • All daycares and Tribal health clinics are ordered closed.

9  
10 22. The Fifth Emergency Executive Order also included a curfew that has since been  
11 changed from 8 PM to 6 AM to 10 PM to 5 AM, with exceptions for emergency medical needs,  
12 healthcare needs, and commuting for essential infrastructure and essential government function  
13 employees.

14 23. Violations of the Tribal government’s emergency health and safety laws are civil  
15 infractions that the Tribe is authorized to enforce against both members and nonmembers in  
16 Tribal Courts, as established pursuant to the Cheyenne River Sioux Tribal Constitution. CRST  
17 Const. Article V.

18 24. Under our Constitution, the Cheyenne River Sioux Tribal Courts have jurisdiction over  
19 all claims arising on the Reservation and all offenses not within the exclusive jurisdiction of the  
20 state or federal courts, as may be provided in the ordinances of the Tribe. CRST Const. Art. V.

21 25. Like any court, the Cheyenne River Sioux Tribal Courts are governed by both Rules of  
22 Civil Procedure and a substantive Law and Order Code, both of which are attached hereto as  
23 **Exhibits G and H** respectively.

24 26. The Cheyenne River Sioux Tribal government is taking every step we can to protect our  
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1 Tribe, but the strain on our human and financial resources is taking its toll. We have very few  
2 trained personnel who can remain on duty for our healthcare, human welfare, and legal facilities  
3 because of the number of personnel who are high risk. Those that remain are working around the  
4 clock.

5 27. Because of our efforts up until now, there is no community spread of Coronavirus on the  
6 Cheyenne River Reservation

7 28. Without additional funding, we will not be able to continue to offer the protections and  
8 support currently in place for Reservation residents. Termination of those efforts will almost  
9 certainly cause greater casualties from COVID-19 on our Reservation.

10 I declare under penalty of perjury that the foregoing is true and correct.

11  
12 Executed this 29th day of May, 2020 in Eagle Butte, South Dakota,

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17 Chairman Harold C. Frazier