

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CONFEDERATED TRIBES OF THE
CHEHALIS RESERVATION *et al.*,

Plaintiffs,

v.

STEVEN MNUCHIN, in his official capacity
as the Secretary of the Treasury,

Defendant.

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

CHEYENNE RIVER SIOUX TRIBE *et al.*,

Plaintiffs,

v.

STEVEN MNUCHIN, in his official capacity
as the Secretary of the Treasury,

Defendant.

Case No. 1:20-cv-0159-APM

UTE INDIAN TRIBE OF THE UINTAH
AND OURAY INDIAN RESERVATION,

Plaintiff,

v.

STEVEN MNUCHIN, in his official capacity
as the Secretary of the Treasury,

Defendant.

Case No. 1:20-cv-1070-APM

CONSOLIDATED CASES

**DECLARATION OF VICE-PRESIDENT SCOTT HERMAN IN SUPPORT OF THE
CHEYENNE RIVER PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

1. My name is Scott Herman and I am Vice-President of the Rosebud Sioux Tribe. I have served in this position since September, 2015.

2. I am over the age of 18 and competent to testify to the information herein if called to do so.

3. Rosebud Sioux Tribe is a federally recognized Indian tribal government whose governing body is recognized by the Secretary of the U.S. Department of the Interior. Also known as the Sicangu Oyate, the Rosebud Sioux Tribe is a branch of the Lakota people and is part of the Oceti Sakowin (Sioux Nation). The Oceti Sakowin consists of the Seven Council Fires: the Thít̃h̃uŋwaŋ (Teton or Lakota), Bdewákaŋthuŋwaŋ (Mdewakanton), Waŋpéthuŋwaŋ (Wahpeton), Waŋpékhute (Wahpekute), Sisíthuŋwaŋ (Sisseton), Iháŋkthuŋwaŋ (Yankton), and Iháŋkthuŋwaŋna (Yanktonai).

4. The Rosebud Sioux Tribe has always exercised its powers of self-governance. The Tribe's first Constitution and bylaws were first adopted in 1935 and have been amended several times as the Tribe has grown in size and complexity. Attached as Exhibit A is a copy of our 1935 Constitution and bylaws.

5. Today, we have much longer, more detailed laws and our Law and Order Code is more than 700 pages long. Attached as Exhibit B is the updated Constitution and bylaws and just the first few pages of the lengthy Law and Order Code. The titles in that code include: probate and guardianship, domestic relations (including divorce, adoption, domestic abuse), protection of juveniles, child custody, traffic, and a criminal code with 40 different chapters of offenses. We also have our own Civil Procedure Code for use in our court system, and a Rules of Criminal Procedure.

6. The Tribal government now consists of more than 50 separate departments ranging from Education to Health Administration to Veterans Affairs. Attached as Exhibit C is our most recent organizational chart showing these departments and their offices. Part of this is law enforcement and our court system, as well as health care services.

7. Because it is a sovereign, the Rosebud Sioux Tribe is a signatory to two treaties with the United States, the 1851 and 1868 Fort Laramie Treaties.

8. The Tribe's role is to protect the health and welfare of its members. Accordingly, the Rosebud Sioux Tribe has taken more than 100 separate actions to protect its tribal members since March 6 when I first banned travel to Seattle, Portland, Oakland, San Francisco, Los Angeles, San Diego, New York, Boston, Washington D.C, Miami, New Orleans, Phoenix; and the following states in their entirety: Washington, Oregon, California, Nevada, Colorado, Texas, Wisconsin, Illinois, Tennessee, Georgia, Florida, North Carolina, Maryland, New York, New Jersey, New Hampshire, Rhode Island, and Massachusetts. These actions are too numerous to list here but are listed on our webpage at <https://www.rosebudsiouxtribe-nsn.gov/rst-coronavirus-information>

9. The Tribe has been dealing with the pandemic on a daily basis since its onset in March 2020. On March 25, 2020, President Bordeaux issued an Order instituting a reservation-wide curfew, ordering a shelter-in-place, limiting restaurants to take-out, limiting the size of gatherings and closing businesses to non-residents. This order is attached as Exhibit D.

10. We have spent the CARES Act funds we received on Personal Protective Equipment (PPEs) consisting of masks, face shields, gloves, thermometers, protective gowns and foot coverings, COVID-19 Test kits which still have not arrived, set up quarantine facilities and isolation facilities for the homeless and others who simply cannot go home and related transportation, hazardous pay for essential employees, checkpoint expenses and planning for community policing.

11. This is not enough. We have much in the way of unmet needs such as a mobile command center, "pop-up" quarantine and isolation facilities such as those that the Army Corps of Engineers has put in place for cities like New York. This is important as we need to develop

places for our law enforcement and emergency services to stay on a temporary basis in case they are exposed to the COVID-19. We need VPN Networking equipment for ambulance and law enforcement units, and a permanent building to house a data center. The facility is currently housed in a double-wide trailer with no foundation. Our emergency services dispatch is desperately in need of mobile capabilities in case of a tornado or some other unforeseen catastrophe. The dispatch is currently crammed in a room where social distancing is difficult. If one dispatcher contracts the virus, it would effectively take out the department. Right now, given the state of things, we cannot afford to go without this necessity.

12. We have had over 30 members sickened by this virus and recently had suffered our first death among our tribal members. We are aware that the State has acknowledged 23 positive cases in Todd County, SD, but our tribal members often get flown out and test in different places such as Sioux Falls and their numbers get reported as part of Minnehaha County's numbers. Our reservation shares a border with the State of Nebraska. We are concerned because both South Dakota and Nebraska are loosening restrictions when it is not safe to do so.

13. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED THIS 29th day of May 2020.



Scott Herman
Vice-President
Rosebud Sioux Tribe

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of May, 2020, I electronically filed the foregoing **CHEYENNE RIVER PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT** with the Clerk of the Court for the United States District Court for the District of Columbia by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Nicole E. Ducheneaux

Nicole E. Ducheneaux (D.C. Bar No. NE001)

BIG FIRE LAW & POLICY GROUP LLP

1404 South Fort Crook Road

Bellevue, NE 68005

Telephone: (531) 466-8725

Facsimile: (531) 466-8792

Email: nducheneaux@bigfirelaw.com