

Congress of the United States
Washington, DC 20515

June 16, 2020

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

The Honorable William Barr
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Secretary Mnuchin and Attorney General Barr:

Before the ratification of the Constitution, what would become the government of the United States of America had a political relationship with the different indigenous people of North America. Since then, the United States government had has a special trust responsibility with the indigenous people, a responsibility derived from the U.S. Constitution, and reinforced by many subsequent statutes and treaties.

Over the past few centuries, the relationship between the federal government and the different indigenous people throughout the country has taken different shapes. In a deliberate departure from the reservation system, which is widespread throughout the Lower 48, the relationship between the federal government and the indigenous people of Alaska took a different shape. This different shape included, and includes today, numerous institutions to provide the various government services that typically a single tribal government would provide throughout the Lower 48. Alaska Native Corporations (ANCs) are part of the numerous institutions created by Congress with the intent of providing for the social well-being of Alaska Native people.

The Alaska Native Claims Settlement Act of 1971 (ANCSA) was the first in a line of five self-determination statutes. These statutes frame the federal policy that permits Native people to exercise control over federal programs without the threat of termination of either the programs or the federal trust relationship. Of course, the cornerstone is the Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA). The Indian Financing Act of 1974, the Indian Health Care Improvement Act of 1976, and the Indian Child Welfare Act of 1978 are the other three statutes passed during that era which embodied the principles of self-determination.

We are aware that a number of tribes are challenging the U.S. Department of Treasury on grounds that ANCs are not eligible to receive Title V tribal set-aside funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act passed by Congress in March 2020. We wholeheartedly disagree with this notion and support your efforts to counter the challenge. In fact, we made sure that the CARES Act explicitly included the ISDEAA definition of “Indian tribe” which states, “‘Indian tribe’ means any Indian tribe, band, nation, or other organized group of community, including any Alaska Native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act (43 USC 1601 et. seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.” The fact that a single federal district

court judge has incorrectly concluded that Congress may have not meant to includes ANCs as tribes is preposterous as our intent and the ISDEAA language could not be more clear.

As stated in a previous letter from us to the Treasury Department, “The CARES Act included the ISDEAA definition of Indian tribe, an acknowledgement that Alaska Native people should not be left out because of the different federal Indian policy that exists in our state.” We support the Department’s position in this case for many reasons, but fundamentally, because it continues to uphold the Congressional intent of providing for the well-being of Alaska Native people “without creating a reservation system of lengthy wardship” when it created Alaska Native Corporations through ANCSA.

This court’s decision could affect more than the Coronavirus Relief Fund funding. This very case threatens the numerous institutions established, and restricted, by Congress over the past four decades to ensure the trust responsibility of the federal government to the Alaska Native people is upheld.

Thank you for your continued efforts on our constituents’ behalf.

Sincerely,



LISA MURKOWSKI
United States Senator



DAN SULLIVAN
United States Senator



DON YOUNG
Congressman for All Alaska