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B.I.A. Emergency Funds To Benefit Alaska Natives

An emergency created by a historic lack of salmon in the Bristol Bay area of Alaska has created the need for emergency funding from the Bureau of Indian Affairs. Assistant Secretary for Indian Affairs, Kevin Gover announced today the Bureau of Indian Affairs would immediately release \$206,000 to be used for emergency assistance to the hundreds of Native Alaskans dependent on the salmon harvest in the Bristol Bay area.

“Emergencies come in many forms, they are not just hurricanes and tornadoes,” Gover stated, “The salmon harvest in Bristol Bay has been the smallest in 20 years, and this will lead to suffering among the Native Alaskans, as surely as if a hurricane had hit the area.” Many Native Alaskans depend on the salmon catch as their only source of income, and as the primary means of feeding their families through the Alaska winter. This year’s poor harvest means that without some assistance, many Alaska Natives may go hungry this winter. “This is only a small amount of assistance, but it can be used immediately by the Native Alaskans for emergency food, shelter and clothing. We tend to see disasters and emergencies in the terms of storms that blow in and destroy, but the lack of salmon in the nets of Native Alaskans will create emergency conditions in the months to come if we do not act now. The lack of fish in this year’s catch is a true disaster even though it is not as dramatic as the destruction of a storm.”

This year’s dismal catch, worth less than one third of an average annual catch, has created hardship for Alaska Natives dependent on the salmon. Last year’s catch was also below projections, and the accumulated debt of two substandard years is causing many Native Alaskans to look at a winter without enough food, fuel oil, or clothing to face the winter ahead. “The amount of money here is simply not enough”, stated Gover, “But by quick delivery and distribution, possibly we can help see the Native Alaskans through until more relief funds can be found.”

suit encourages tribes and states to deal with each other as sovereigns and often results in government-to-government negotiations between tribes and states on tax and other issues of mutual concern. Neither party has the upper hand in such negotiations. Rather, each sovereign must respect the views and needs of the other and both must work toward mutually satisfactory accommodations on important issues. Waiving tribal sovereign immunity would effectively remove the incentive of states to deal with tribes as fellow sovereigns.

Widespread disagreement exists among officials within state governmental officials exists as to whether it is necessary to waive tribal sovereign immunity in order to resolve tribal/state disputes. In a letter dated September 10, 1997, Governor Gary Locke of Washington expressed his concerns to Senator Slade Gorton concerning Sections 118 and 120 of the Department of the Interior's Fiscal 1998 Appropriations Bill, (H.R. 2107). If enacted, Section 118 would have effected a waiver of tribal sovereign immunity upon receipt of TPA funds and Section 120 would have provided for means testing of tribal TPA allocations. Governor Locke stated in his letter that, in his view, those provisions would "undoubtedly weaken the political, social and economic infrastructure needed to ensure healthy, stable tribal communities." He concluded by stating that he believed that the provisions "would negatively impact all of Washington's citizens, as well as tribes and communities throughout the country." Similarly, the attorneys general of eight states, in a letter to President Clinton dated September 3, 1997 regarding Sections 118 and 120 of H.R. 2107, stated that those provisions "would drive a wedge into the heart of the doctrine of tribal sovereignty which has protected native cultures and native rights and has served as the foundation of Indian self-government in this country."

Regarding contractual disputes, the Administration's view is that there is no need for Congress to waive tribal sovereign immunity. A non-Indian party entering into a contractual relationship with an Indian tribe has the opportunity to negotiate and bargain for a waiver of immunity from the tribe or the subordinate entity that will enter into the contract for the tribe. There are many federal, tribal and state court cases recognizing and applying the doctrine of tribal sovereign immunity. Any party seeking to do business with a tribe has ample notice of the doctrine and ample opportunity to negotiate a waiver to protect its interests. The concept of *caveat emptor* should prevail in these circumstances.

We direct to Committee's attention to the 1991 Report of the United States Commission on Civil Rights. After extensive hearings, the Commission rejected the call for a waiver of tribal sovereign immunity and instead recommended that before waiving tribal immunity, "Congress should afford tribal forums the opportunity to operate with adequate resources, training and funding, and guidance, something that they have lacked since the inception of the ICRA."

In conclusion, it is the Administration's view that there is no documented need for Congress to waive unilaterally tribal sovereign immunity. Such a sweeping curtailment of tribal sovereignty would be reminiscent of the Termination Era.

I am pleased to have had the opportunity to present the views of the Department of the Interior on this subject and I will be happy to answer questions of the Committee.