

ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS

Raymond Watson, Chairperson | Vivian Korthuis, CEO | AVCP.org



Administration

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VIA CERTIFIED MAIL AND E-MAIL (consultation@bia.gov)

November 27, 2018

Tara Mac Lean Sweeney
Assistant Secretary – Indian Affairs
Department of the Interior
1849 C Street, N.W.
MS-4660-MIB
Washington, D.C. 20240

RE "Dear Tribal Leader" letter regarding Organizing under the Alaska IRA

Dear Ms. Sweeney:

The Association of Village Council Presidents (AVCP) is a nonprofit, inter-tribal consortium incorporated by the 56 federally recognized Alaska Native tribes of the Yukon-Kuskokwim Delta to manage self-governance programs pursuant to P.L. 93-638. This summer, AVCP received a "Dear Tribal Leader" letter dated July 2, 2018, about what were described as concerns about the procedures used by Alaska Native groups seeking to organize under the Alaska amendments to the Indian Reorganization Act ("Alaska IRA").

The letter requested consideration of nine questions, which would be the subject of listening sessions and consultations during the summer and autumn in Alaska. AVCP staff attended the listening session held in Fairbanks on July 26, 2018, and the Alaska Native Corporation consultation held in Anchorage on October 18, 2018. Our organization is aware of the strong initial feedback provided by tribal representatives to the Bureau of Indian Affairs, and of the Bureau's subsequent clarifications regarding the intent and scope of the July 2 letter.

Several of AVCP's member tribes are organized under the Alaska IRA. AVCP has heard concerns from some of our member tribes regarding the July 2 letter and subsequent listening sessions and consultations. AVCP now responds to the July 2 letter based on the information we have received since July 2.

I. AVCP QUESTIONS THE EXTANT NEED TO REVIEW ORGANIZING UNDER THE ALASKA IRA.

AVCP joins the voices of tribal leaders and representatives statewide who have questioned the need to reassess the process for Alaska Native groups to organize under the Alaska IRA. As the Bureau acknowledged at the October 18 consultation, an exceedingly small number (three) of Alaska Native groups are presently considering or have sought to organize under the Alaska IRA. Representatives from two such

Akiachak, Akiak, Alakanuk, Andreafski, Aniak, Atmautluak, Bethel, Bill Moore's St., Chefornak, Chevak, Chuathbaluk, Chuloonawick, Crooked Creek, Eek, Emmonak, Georgetown, Goodnews Bay, Hamilton, Hooper Bay, Lower Kalskag, Upper Kalskag, Kasigluk, Kipnuk, Kongiganak, Kotlik, Kwethiuk, Kwigillingok, Lime Village, Marshall, Mekoryuk, Mtn. Village, Napaimute, Napakiak, Napaskiak, Newtok, Nighimute, Nunakaayak, Nunam Iqua, Nunapitchuk, Ohogamiut, Oscarville, Paimiut, Pilot Station, Pitka's Point, Platinum, Quinhagak, Red Devil, Russian Mission, Scammon Bay, Sleetmute, St. Mary's, Stony River, Tuluksak, Tuntutuliak, Tununak, Umkumiut.

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groups—the Qutekcat Native Tribe and the Knugank Tribe—clearly stated their concern that the Bureau's review will cause greater delay in what has already been a lengthy process through the Bureau.

AVCP joins these groups in respectfully proposing that the Bureau should prioritize its efforts towards a resolution of the groups' currently pending requests under the existing procedures rather than devote staff's time and energy to a statewide consultation process for an issue limited to three groups.

II. AVCP FINDS ORGANIZATION UNDER THE ALASKA IRA TO BE SUFFICIENT AS IS.

AVCP urges the Bureau to maintain its established understanding of and approach to the organization provision of the Alaska IRA. The Alaska IRA's common bond standard was established by Congress in 1936 as a unique means for Alaska Native groups to organize. Dozens of Alaska Native tribes, including member tribes of AVCP, organized under the common bond standard to achieve federal recognition and support. Congress has kept the organization provision of the Alaska IRA enacted despite explicitly repealing other provisions of the Alaska IRA since its passage.

The Bureau should continue existing practices with regards to defining and interpreting the common bond standard according to the plain language of the Alaska IRA, as Congress has not acted unambiguously to change or revoke the organization provision. New regulations or additional formal guidance are not necessary for the Bureau to continue to perform its congressionally delegated role under the Alaska IRA.

III. AVCP SUPPORTS THE CONTINUED VALIDITY OF THE COMMON BOND STANDARD.

AVCP concludes that the common bond standard remains a valid alternative for Alaska Native groups to seek federal recognition other than through 25 CFR Part 83. The common bond standard was specially crafted by Congress in consideration of the distinct characteristics and circumstances of Alaska Native tribes in comparison to the tribes of the contiguous United States. Such distinctions include unique geographic distributions, political and social interactions and organizations, and contact with outsiders.

The reasons Congress created the common bond standard still resonate with Alaska Natives' experience today much as in 1936. Thus, the common bond standard continues to be relevant and beneficial to Alaska Natives.

IV. AVCP DEFENDS THE SOVEREIGNTY OF TRIBES ORGANIZED UNDER THE ALASKA IRA AS EQUAL TO THAT ENJOYED BY ALL OTHER TRIBES.

AVCP sees no legal basis to question the sovereignty of Alaska Native tribes that organized under the Alaska IRA, or to prescribe limits on such tribes' sovereign powers. Federal law treats Alaska Native tribes as the

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equal of Indian tribes in the contiguous United States. Like those tribes, Alaska Native tribes possess inherent sovereignty.

Alaska Native tribes may seek federal recognition of their sovereignty through the Alaska IRA in order to establish a government-to-government relationship with the United States. Once a tribe is federally recognized, a federal department or agency may not alter that tribe's powers relative to those of other federally recognized tribes. Consequently, Alaska Native tribes organized pursuant to the Alaska IRA possess the ability to exercise sovereign powers and may exercise such powers to the same extent as all other tribes.

V. AVCP ENCOURAGES THE BUREAU TO REVIEW ITS APPROACH TO THIS CONSULTATION.

AVCP echoes the concerns raised by tribal representatives that the Bureau's "Dear Leader" letter and consultations largely coincided with the Alaska subsistence season. Most tribal leaders were focused on securing traditional foods for their families and communities before the long winter season. Traditional foods are significantly less abundant in winter, and store-bought foods in rural Alaska are prohibitively expensive.

The arrival of a "Dear Leader" letter, much of it written with legalese, during the subsistence season prompted widespread concern and forced tribal leaders to choose between subsistence and consultation. The issue ultimately concerns only three Alaska Native groups. AVCP suggests some reflection be made about the appropriateness of the methods used here.

In addition to subsistence and the scope of the issue, the consultation on October 18, 2018, was scheduled at the same date and time as the annual AFN-NCAI Tribal Conference. Additionally, the consultation on October 21, 2018, was scheduled on the customary travel date for tribal representatives returning home from AFN. Further, the naming of these consultations as specific to corporations or tribes caused the impression that the consultations were exclusive to such groups. In reality, these events were open to the public.

Thank you for your consideration of our responses to respond to the Bureau's July 2 letter.

Sincerely,
ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS

Vivian Korhuis
Chief Executive Officer

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Senator Dan Sullivan

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