



Sent via Facsimile and U.S. Mail

May 13, 2020

**Bristol Bay Area
Health Corporation**
6000 Kanakanak Road
P.O. Box 130
Dillingham, AK 99576
(907) 842-5201
(800) 478-5201
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Chairperson Fullenwider
Alaska State Commission for Human Rights
800 A Street, Suite 204
Anchorage, AK 99501-3669
Fax: 907-278-8588

RE: BBAHC Complaint Regarding Governor Mike Dunleavy, in his official capacity as Governor of Alaska

Dear Chairperson Fullenwider:

The attached Complaint is sent on behalf of the Bristol Bay Area Health Corporation and the 28 villages it represents in the Bristol Bay region.

We have a potential public health emergency about to unfold in Bristol Bay with tens of thousands of fishery workers descending on our villages in the midst of a pandemic. Our hope is that the Commission, in carrying out its mission to prevent the State of Alaska from infringing upon the human rights of its citizens, will take immediate action to prevent disaster.

We have taken all the steps we can to prevent a disaster, but the Governor has prioritized economic gains over protection of Alaska Natives. Please contact me at 907-842-5201 or rclark@bbahc.org at your immediate convenience.

Sincerely,

BRISTOL BAY AREA HEALTH CORPORATION

Robert J. Clark
President/Chief Executive Officer

Enclosure

cc: Geoffrey Strommer, Hobbs, Straus, Dean & Walker, LLP

*Bristol Bay Area
Health Corporation is
a tribal organization
representing 28 villages in
Southwest Alaska:*

Aleknagik
Chignik Bay
Chignik Lagoon
Chignik Lake
Clark's Point
Dillingham
Egegik
Ekuk
Ekwok
Goodnews Bay
Ivanof Bay
Kanatak
King Salmon
Knugank
Koliganek
Levelock
Manokotak
Naknek
New Stuyahok
Perryville
Pilot Point
Platinum
Port Heiden
Portage Creek
South Naknek
Togiak
Twin Hills
Ugashik

*Our mission is to
provide quality
health care with
competence,
compassion, and
sensitivity*

ALASKA STATE COMMISSION FOR HUMAN RIGHTS

COMPLAINT OF DISCRIMINATION

ASCHR NO.

COMPLAINANT: *Bristol Bay Area Health Corporation*
ADDRESS: P.O. Box 130 - Dillingham, Alaska 99576
TELEPHONE: 907-842-5201

RESPONDENT: *Governor Mike Dunleavy, in his official capacity as Governor of Alaska*
ADDRESS: P.O. Box 110001, Juneau, AK 99811-0001 and 111 West 16th Avenue, Suite 400,
Anchorage, AK 99501
TELEPHONE: 907-465-3500 and 907-278-3602

DATE OF MOST RECENT OR CONTINUING DISCRIMINATION: *[April 23, 2020]*

RESPONDENT EMPLOYS: Approximately 15,000

The collective villages of the Bristol Bay Area Health Corporation (BBAHC) (Complainant) hereby files with the Alaska Commission on Human Rights (hereafter referred to as the "Commission") this complaint that the actions taken by the Governor of the State of Alaska ("Respondent") to open the Bristol Bay fishery amidst the COVID-19 pandemic violates the State Human Rights Law under Alaska Statutes Title 18, Chapter 80. Pursuant to AS 18.80.105, the Commission may seek a temporary restraining order, or similar relief, in superior court to prevent Respondent from taking any action that would "render ineffectual any order the Commission may enter with respect to the complaint." Allowing the fishery to open threatens the lives of the Alaska Natives in the Bristol Bay region given the threat of the COVID-19 pandemic, and the Commission should therefore immediately seek a restraining order to prevent this harm from occurring.

Background and State of Alaska Health Mandates

The COVID-19 pandemic crisis has proceeded, within the State of Alaska, with responses from Governor Mike Dunleavy in the form of Health Mandates.¹ Health Mandate 1 was issued on March 13, 2020, two days after the Governor signed a Public Health Disaster Emergency Declaration on March 11, 2020.² Health Mandate 1 suspended visitation to certain State institutions. Health Mandate 10 was issued on March 23, 2020, and provided for limitations on travel into and out of the State, and ordered for 14-day self-quarantine for arriving people

¹ Alaska Health Mandates are available at: <https://covid19.alaska.gov/health-mandates/>.

² *Id.*

within the State.³ The Governor limited intrastate travel on March 27, 2020, through Mandate 12, which was then superseded by Health Mandate 18, issued on May 11, 2020.⁴

All of the State restrictions have exemptions, which the Governor first published in a document entitled “Attachment A” on March 27, 2020.⁵ This document has now been retitled “Alaska Essential Services and Critical Workforce Infrastructure Order” and makes the determination that “Fishing” is considered “Critical Infrastructure” and includes “persons engaged in subsistence fishing and in the fishing industry including the fisherman, processors, guides, and transporters of the fish as well as those under contract with the fisherman, processors, guides, and transporters for provisioning.”⁶ This means that the State has determined that fishing “ha[s] a special responsibility in these times to continue operations.”⁷

Village Efforts to Protect Human Health and Safety in Alaska

Governor Dunleavy, while issuing travel restrictions through Health Mandates, also issued an Order on March 27, 2020, in a document first referred to as “Attachment B” and now titled “Alaska Small Community Emergency Travel Order” (hereafter referred to as “ASCETO”).⁸ The ASCETO provides that Alaskan communities off of the road system, with fewer than 3,000 residents, and without a Critical Access, Community, or Acute Care Hospital may impose even stricter restrictions than the State to protect its community from the COVID-19 pandemic. However, the ASCETO prohibits such communities from prohibiting or restricting in any way “[p]ersons engaged in subsistence fishing and in the fishing industry including the fisherman, processors, guides, and transporters of the fish as well of those under contract with the fisherman, processors, guides, and transporters for provisioning[.]”⁹

Alaska Native villages treated as tribes under federal Indian law and small Alaska communities have taken a wide range of approaches to the COVID-19 crisis. Some tribes have recommended that non-residents do not enter communities, while “others are outright banning all

³ *Id.*

⁴ *Id.*

⁵ *Alaska Essential Services and Critical Workforce Infrastructure Order* (amended May 5, 2020), <https://gov.alaska.gov/wp-content/uploads/sites/2/Alaska-Essential-Services-and-Critical-Workforce-Infrastructure-Formerly-Attachment-A-05.05.2020.pdf>.

⁶ *Id.* at 2.

⁷ *Id.* at 1.

⁸ *Alaska Small Community Emergency Travel Order* (amended Apr. 9, 2020), <https://gov.alaska.gov/wp-content/uploads/sites/2/04132020-COVID-MANDATE-012-Alaska-Small-Community-Emergency-Travel-Order.pdf>.

⁹ *Id.* at 1-2.

outbound and inbound travel unless it is for medical or emergency reasons.”¹⁰ The Native Village of Koyukuk voted to stop passenger travel to and from village. The Assistant Koyukuk City Manager said, “the community was devastated by earlier epidemics that wiped out more than half the village and is seeking to protect today’s elders.”¹¹

Eight Alaska interior tribal communities sent letters to Wright Air Service suspending service and air travel in and out except for medical emergencies, including Venetie, Arctic Village, Chalkyitsik, and Nulato. Fort Yukon and Huslia took action to forbid non-resident travel to their communities.¹² Other tribes in Alaska have adopted similarly strict travel policies to protect their members in remote locations by limiting travel by air, land, and water.¹³ Barring serious medical conditions, Grayling IRA Tribal Council suspended all travel for 30 days and Stony River Traditional Council is no longer allowing non-residents into the village.¹⁴

At a recent press conference, Governor Dunleavy, when questioned about the legal ground for travel restrictions imposed by tribes, said that while discussions would need to be had with communities seen to be going “overboard”, “[c]ommunities have the leeway through their councils or city councils and other governmental entities to have that discussion with the people in town and the people in the surrounding areas[.]”¹⁵ Further, he acknowledged, “the less mixing we have going on at this point, the more we slow the virus down.”¹⁶

According to a recent *Time* magazine article analyzing different Alaska village efforts to combat the Coronavirus, there is evidence to support that strict isolation measures in villages could be effective.¹⁷ Dr. Howard Markel, University of Michigan medical history professor, studied communities that weathered the 1918 flu epidemic through making the decision to isolate themselves, including “the San Francisco Naval Training Station on Yerba Buena Island; Princeton University in New Jersey; and Gunnison, Colorado,” who made it through the

¹⁰ “*How Bethel and other rural Alaska villages are preparing for COVID-19*,” Alaska Public Media (Apr. 17, 2020), <https://www.alaskapublic.org/2020/04/17/how-bethel-and-other-rural-alaska-villages-are-preparing-for-covid-19-alaska-insight/>.

¹¹ *Id.*

¹² Kyle Hopkins, *Remote Alaska Villages Isolate Themselves Further in Effort to Shield Against Coronavirus*, ProPublica/Anchorage Daily News (Mar. 22, 2020), <https://www.propublica.org/article/remote-alaska-villages-isolate-themselves-further-in-effort-to-shield-against-coronavirus>.

¹³ Joaqlin Estus, *Alaska villages clamp down on travel*, Indian Country Today (Apr. 10, 2020), <https://indiancountrytoday.com/news/alaska-villages-clamp-down-on-travel-4YrSaCCFXUeGYi9wkhR19A>.

¹⁴ *Here’s an alphabetical list of the Y-K villages restricting travel to stop the coronavirus*, Alaska Public Media (Mar. 24, 2020), <https://www.alaskapublic.org/2020/03/24/heres-an-alphabetical-list-of-y-k-villages-restricting-travel-to-stop-the-coronavirus/>.

¹⁵ Estus, *supra* note 13.

¹⁶ Estus, *supra* note 13.

¹⁷ Alejandro de la Garza, *Alaska’s Remote Villages Are Cutting Themselves Off to Avoid Even ‘One Single Case’ of Coronavirus* (March 31, 2020), <https://time.com/5813162/alaska-coronavirus/>.

pandemic with few, or no influenza cases.¹⁸ Further: “Records are scarce, but a 1927 survey of the Spanish influenza pandemic indicates that the mortality rate of the disease may have been four times higher among Native Americans than for whites. The vast majority of influenza deaths in Alaska, more than 80%, were among native people.”¹⁹

Bristol Bay Efforts to Protect Health and the 2020 Salmon Fishery

Alaska Governor Dunleavy understands the threat to the State of Alaska, evidenced by his assessment of local villages shutting down and supporting that effort with this statement: “The less mixing we have going on at this point, the more we slow the virus down.”²⁰ However, the aforementioned definition by the Governor of “Fishing” as part of Alaska’s “Critical Infrastructure” has the effect, in Bristol Bay, of preventing these villages from being able to issue more health restrictions under the ASCETO. Instead, the Governor has decided that the health and safety of Bristol Bay Alaska Natives will be sacrificed in favor of opening the salmon fishery in 2020. The Governor knows that opening the fishery will bring tens of thousands of people into Bristol Bay from all over the world, and he is willing to sacrifice the health of Bristol Bay Alaska Natives in favor of the interests of outside fishing interests coming into the region to take part in the salmon fishery and other fisheries.

The Bristol Bay Working Group presented protocols to the Governor on April 6, 2020, to define the “necessary measures for the health and safety of our region’s people and all who work in Bristol Bay.”²¹ Those protocols included pre-arrival criteria, requirements upon arrival, and minimum requirements for Industry Health Response Plans. That same day, the City of Dillingham and the Curyung Tribal Council sent a letter to the Governor requesting that he take “immediate action to control the impacts of the entry of the virus to our state, our region and our community by serious consideration to closing the upcoming Bristol Bay commercial salmon fishery” and that he “assess the closure of the Bristol Bay commercial salmon fishery in 2020.”²² In the following days, the Naknek Native Village Council²³, the South Naknek Village Council, and the King Salmon Tribe²⁴ called for the Governor to put protective measures in place. Also on

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Estus, *supra* note 13.

²¹ Bristol Bay Protocols for 2020 Salmon Season (Apr. 6, 2020), [https://www.dropbox.com/s/q9n2pbrdpekajag/4-6-2020 Bristol Bay working Group Letter.pdf?dl=0](https://www.dropbox.com/s/q9n2pbrdpekajag/4-6-2020%20Bristol%20Bay%20working%20Group%20Letter.pdf?dl=0).

²² Letter from Alice Ruby, Mayor of Dillingham, and Thomas Tilden, First Chief of Curyung Tribal Council, to Governor Mike Dunleavy of Alaska (Apr. 6, 2020), [https://www.dropbox.com/s/kgcohp10ujgb9fd/4-6-2020 Dillingham and Curyun Tribal Council Letter-to-Governor-4-6-20-FINAL.pdf?dl=0](https://www.dropbox.com/s/kgcohp10ujgb9fd/4-6-2020%20Dillingham%20and%20Curyun%20Tribal%20Council%20Letter-to-Governor-4-6-20-FINAL.pdf?dl=0).

²³ Letter from Linda Halverson, President, Naknek Native Village Council, to Governor Mike Dunleavy of Alaska (Apr. 7, 2020), [https://www.dropbox.com/s/bfan3b3pehy8lc5/4-7-2020 Naknek Native Village Letter to State-Call to Action Fishery.pdf?dl=0](https://www.dropbox.com/s/bfan3b3pehy8lc5/4-7-2020%20Naknek%20Native%20Village%20Letter%20to%20State-Call%20to%20Action%20Fishery.pdf?dl=0).

²⁴ Letter from Ralph Angasan Sr., President, King Salmon Tribe, to Governor Mike Dunleavy of Alaska (Apr. 8, 2020), [https://www.dropbox.com/s/sja0ujli4j0p8yp/4-8-2020 King Salmon letter to Dunleavy signed kstribe.pdf?dl=0](https://www.dropbox.com/s/sja0ujli4j0p8yp/4-8-2020%20King%20Salmon%20letter%20to%20Dunleavy%20signed%20kstribe.pdf?dl=0).

April 6, Dr. Catherine Hyndman, Clinical Director at the Bristol Bay Area Health Corporation, wrote to Governor Dunleavy describing the limited medical resources available in the region and requesting that either the fishing season be cancelled or that the Governor place “strict mandates with viable quarantine plans, preferably overseen by law enforcement.”²⁵

On April 7, 2020, the Naknek/King Salmon Taskforce of the Alaska Fishing Industry Safety & Health (AFISH) Committee shared a list of safety protocols that seafood companies “could use to improve specific company plans” during the fishing season.²⁶ Since then, the processing companies have posted their COVID-19 Response Plans on the Bristol Bay Borough website.²⁷ The Bristol Bay Regional Seafood Development Association has also posted their “Fleet Requirements & Recommendations” on their website.²⁸

On April 15, 2020, the Bristol Bay Working Group followed up on its April 6, 2020 protocols, reiterating that if those steps are not taken, “the state should close the Bristol Bay fishery for 2020.”²⁹ Local mayors wrote to the Governor on April 18, 2020, to express their concern that the upcoming salmon fishery would be moving forward with no input from local municipalities and requesting a meeting.³⁰ The Bristol Bay Area Health Corporation released a statement “requesting this year’s fishing season remain closed” on April 23, 2020.³¹ The City of Dillingham enacted Emergency Ordinance No. 2020-07 on April 30, 2020, mandating a quarantine requirement and detailing the travel use permitting process.³² On May 1, 2020, the Bristol Bay Regional Seafood Development Association (BBRSDA) formally requested that the State of Alaska provide medical supplies, infrastructure, and compliance support to the region,

²⁵ Letter from Catherine Hyndman, MD, Clinical Dir., Bristol Bay Area Health Corp., to Governor Mike Dunleavy of Alaska (Apr. 6, 2020), <https://www.dropbox.com/s/422jrdaowhhszo0/Handout - Dr Hyndman Letter to Governor Dunleavy.pdf?dl=0>.

²⁶ Processing Companies Commitment Letter to Bristol Bay (Apr. 7, 2020), <https://www.dropbox.com/s/7a4q7oj51ckc4k1/4-7-2020 Processing Companies-Commitment-Letter-to-BB.pdf?dl=0>.

²⁷ *Processor Plans*, Bristol Bay Borough of Alaska, http://www.bristolbayboroughak.us/covid-19_information/processors_covid19_response_plans.php (last visited May 12, 2020).

²⁸ *COVID-19*, Bristol Bay Regional Seafood Dev. Ass’n, <https://www.bbrsda.com/covid19> (last visited May 12, 2020).

²⁹ Letter from Bristol Bay Working Group to Governor Mike Dunleavy of Alaska (Apr. 15, 2020), <https://www.dropbox.com/s/pm6raxcu3hxfq8r/4-15-2020 Bristol-Bay-Letter-to-Governor-Dunleavy.pdf?dl=0>.

³⁰ E-mail from Bristol Bay Mayors to Governor Mike Dunleavy of Alaska (Apr. 18, 2020), <https://www.dropbox.com/s/apgw10vn4qjrw8p/4-18-2020 Mayors Letter to Dunleavy.pdf?dl=0>.

³¹ Press Release, Bristol Bay Area Health Corp., Bristol Bay Area Health Corporation Requests Fishing Season to Remain Closed Due to COVID-19 (Apr. 23, 2020), <https://www.dropbox.com/s/cs6wzc7u0a9p7hc/Press Release Fishing Season - final 4.23.20.pdf?dl=0>.

³² Dillingham, Alaska, Emergency Ordinance No. 2020-07 (Apr. 30, 2020), <https://www.dropbox.com/s/aun1ecr57tpbng5/4-30-2020 O 2020-07 EO Travel Quarantine Requirements.pdf?dl=0>.

including but not limited to PPE, testing supplies, temporary bathroom facilities, and enforcement personnel.³³

The Bristol Bay Working Group convened a call of community, tribal, health, and related interests on May 4, 2020, to discuss the dire concerns regarding the State's decision to open the fishery in the region and the lack of preparedness. One of the key issues discussed was the lack of enforcement for the fishing industry's self-imposed plans and guidelines. Consistent with that concern, BBNA and BBAHC sent a joint letter (attached to this Complaint) to the Alaska Attorney General requiring that the AG immediately work with them to prepare a protocol agreement on enforcement, since local Bristol Bay communities have no resources or infrastructure to enact any level of enforcement. The AG has not yet responded to that letter.

The Bristol Bay Fishery and Discrimination

The Governor's decision to prioritize the fishery over Alaska Native health in Bristol Bay is discriminatory on its face. Essentially, the Governor allows and supports Interior and other Alaska villages in protecting their communities from COVID-19 through the ASCETO, but Bristol Bay villages, by contrast, have no choice but to accept tens of thousands of outsiders to come into their villages from all around the world. This creates two classes of Alaska Natives within the State of Alaska—those that have the rights and tools to protect their village, and those that the Governor has decided must endure direct and substantial threats to their continued existence because of his desire to encourage fishery revenue.

Racism and discrimination in fisheries issues is not new to the State of Alaska. In the 1991 case *Johnson v. Alaska State Department of Fish and Game*, the Supreme Court affirmed in part the Alaska Commission for Human Rights' findings, and those of the lower court, that instrumentalities of the State of Alaska, the Alaska Department of Fish and Game and the Alaska Board of Fish, took actions in favor of non-native inriver fishermen in the region near Yakutat and directly against Alaska Native surf fishermen working within the same fishery that amounted to violations of the Alaska Human Rights Act (AS 18.80).³⁴

In this case, the commercial fishing industry within Bristol Bay is largely controlled by industry and businesses that are non-Native, similar to the inriver fishers in *Johnson*. Because the Governor has preempted local communities from prohibiting or restricting fisher movement or travel through the Health Mandates, the Governor has essentially made the State 100% responsible for the health impacts to Bristol Bay Alaska Natives who have, as discussed above, made clear their position that, absent full protections, the fishery should be closed. The State has sided with the economic interests of non-Alaska Native fishers, processors, transporters, guides,

³³ Letter from Andy Wink, Exec. Dir., Bristol Bay Regional Seafood Dev. Ass'n., to Governor Mike Dunleavy of Alaska (May 1, 2020), [https://www.dropbox.com/s/0b1opgl0w4yyt33/5-1-2020 BBRSDA%2B-%2BBristol%2BBay%2BResource%2BNeeds%2BLetter%2Bto%2BGovernor.pdf?dl=0](https://www.dropbox.com/s/0b1opgl0w4yyt33/5-1-2020%20BBRSDA%2B-%2BBristol%2BBay%2BResource%2BNeeds%2BLetter%2Bto%2BGovernor.pdf?dl=0).

³⁴ *Johnson v. Alaska State Dept. of Fish & Game*, 836 P.2d 896 (Alaska 1991).

and transporters, instead of local Alaska Natives who have insufficient health resources and potentially greater susceptibility to the pandemic.

This is not solely a discriminatory set of actions based on race, but also on national origin. In *Morton v. Mancari*, 417 U.S. 535 (1974), the Supreme Court drew upon almost two centuries of Indian law in concluding that an employment preference for Indians in the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) “does not constitute ‘racial discrimination.’ Indeed, it is not even a ‘racial’ preference.” *Id.* at 553. Rather, the Constitution “singles Indians out as a proper subject for separate legislation,” *id.* at 551-52, due to “the unique legal status of Indian tribes under federal law and upon the plenary power of Congress [drawn from the Constitution], based on a history of treaties and the assumption of a ‘guardian-ward’ status.” *Id.* at 551.

Therefore, the Commission should consider the Bristol Bay tribes as separate nations from other tribes, as well as from the State of Alaska, which is consistent with federal Indian law. Interior tribes, because of their national origin away from commercial fisheries, have been treated by the Governor as worthy and deserving of additional protections for their community human health. Bristol Bay tribes, because of their separate national origin within the Bristol Bay fishery region, are directly discriminated against by the Governor. Instead of additional human health protections, the Governor has thrown these communities into the COVID-19 line of fire against their will, with insufficient health, infrastructure, and enforcement tools and resources available.

Relief Requested

Complainants request that the Commission immediately seek a temporary restraining order in superior court enjoining the State from opening the Bristol Bay fishery, pending its investigation.³⁵ Complainants request that the Commission issue an order requiring that the Governor not discriminate against Bristol Bay Alaska Natives, allowing the villages to issue the same range of restrictions allowed under the ASCETO as other villages within the State.³⁶ The Commission should make a determination that the State has, in violation of AS 18.80.255(1), unlawfully refused Bristol Bay villages “local, state, or federal funds, services, goods, facilities, advantages or privileges” because of their race and/or national origin, particularly given the serious consequences of not protecting these villages in the face of a pandemic.

³⁵ AS 18.80.105.

³⁶ AS 18.80.130.

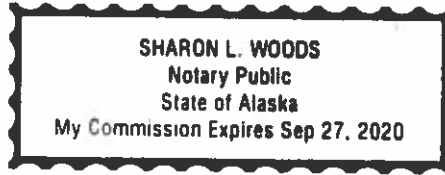
I pledge to inform the Human Rights Commission and any other agency listed above of any change in my address or telephone number and will cooperate fully with them in the investigation and processing of this complaint.

I swear or affirm that I have read the above complaint and that it is true to the best of my knowledge, information and belief:

Robert F. [unclear]

SIGNATURE OF COMPLAINANT
Subscribed and sworn to me this 13th day of
2020 at Dillingham, Alaska

Sharon L Woods
SIGNATURE OF NOTARY PUBLIC or POSTMASTER
My commission expires Sept 27, 2020





Sent via email and U.S. Mail to: attorney.general@alaska.gov

May 11, 2020

Kevin Clarkson
Alaska Attorney General
1031 West 4th Avenue, Suite 200
Anchorage, AK 99501-1994

Subject: Immediate Request for Protocol Agreement

Dear Attorney General Clarkson:

This letter is sent on behalf of the Bristol Bay Area Health Corporation and the 28 villages it represents in the Bristol Bay region and is a direct follow up to the April 15, 2020 letter sent by the Bristol Bay Working Group (attached).

We have a potential public health emergency about to unfold in Bristol Bay. In the April 15 letter, all of the major Bristol Bay organizations demanded that Governor Dunleavy, if he were insisting on opening the fishery and bring in tens of thousands of people from outside our region during a global pandemic, have a rigorous program of enforcement of health and safety measures. It is the State's responsibility.

Since then, he has issued Health Mandate 17 that, on its face, leaves it to the fish processors and businesses to come up with their own plans and resources to regulate themselves. This is unprecedented and unacceptable. On top of a public health emergency, we think this creates the potential for a public safety emergency, where local village and/or local governments, many with no Village Public Safety Officers on the ground, will have to make hard decisions about individuals in their community working the fishery who may refuse to comply with COVID-19 health and safety measures.

We need a protocol agreement in place, and we think your office needs to spearhead this effort on behalf of the State. This needs to happen in the next 10 days, given the massive influx of people that will be arriving in our region prior to the end of the month. At a minimum, the protocol agreement needs to spell out exactly how the State intends to deploy enforcement measures, what the approach will be for individual and company offenders, what response time villages can expect, and who the points of contacts are.

We will devote staff, leadership, and legal resources to work on this agreement starting immediately. Please contact me at 907-842-5201 or rclark@bbahc.org as soon as you receive this email so we can begin the process.

Sincerely,
BRISTOL BAY AREA HEALTH CORPORATION

Robert J. Clark
President/Chief Executive Officer

cc: Executive Committee

Enclosure

Bristol Bay Area Health Corporation
000 Kanakanak Road
P.O. Box 130
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Bristol Bay Area Health Corporation is a tribal organization representing 28 villages in Southwest Alaska:

- Aleknagik
- Chignik Bay
- Chignik Lagoon
- Chignik Lake
- Clark's Point
- Dillingham
- Egegik
- Ekuk
- Ekwook
- Goodnews Bay
- Ivanof Bay
- Kanalak
- King Salmon
- Knugank
- Koilganek
- Levelock
- Manokotak
- Naknek
- New Stuyahok
- Perryville
- Pilot Point
- Platinum
- Port Heiden
- Portage Creek
- South Naknek
- Togiak
- Twin Hills
- Ugashik

Our mission is to provide quality health care with competence, compassion, and sensitivity



April 15, 2020

The Honorable Michael J. Dunleavy
Governor of the State of Alaska
Office of the Governor
550 West 7th Avenue
Suite 1700
Anchorage, Alaska 99501

Re: COVID-19 Pandemic and 2020 Bristol Bay Fishing Season

Dear Governor Dunleavy:

We are writing on behalf of the Bristol Bay Working Group, representing the Bristol Bay Economic Development Corporation, Bristol Bay Native Association, Bristol Bay Native Corporation, Bristol Bay Housing Authority, & the United Tribes of Bristol Bay, concerning a matter of critical public concern. That matter is the risk posed to all Alaskans, and especially to the residents and the healthcare workers of the Bristol Bay region, presented by the ongoing COVID-19 pandemic and the rapidly approaching 2020 fishing season.

Bristol Bay Fishery Involves Substantial In-migration of Non-Residents. As you know, each year the Bristol Bay fishery swells the population by thousands of individuals who travel to the region. These individuals arrive to fill seasonal jobs as fishermen, industry support personnel, and processing workers, and they travel here literally from every corner of the country and the globe. This in-migration of workers results in the highest increase and concentration of population of any rural community and any fishery in Alaska.

Health Risks of Arriving Fisheries Workers. During the past several weeks, since the eruption of the COVID-19 pandemic, we have learned that individuals infected with the virus can be asymptomatic, but still highly contagious. We know, as well, that workers in Alaska's fishing industry unavoidably work in close quarters on fishing boats, tender vessels, and processing facilities. It is impossible for these individuals or their employers to comply with the recommendations for "social distancing" and personal hygiene of the Centers for Disease Control and Prevention and your administration. The Bristol Bay fishery, by its very nature, requires that individuals engage in exactly the opposite actions and behavior as are recommended by all public health experts and officials. As a result, the risk of transmission of the virus in this environment is not just high -- it is certain.

Regional Lack of Necessary Infrastructure. Bristol Bay is one of the most rural areas of the most rural State in the country. It is not an overstatement to say that there likely is not a worse place in the United States to be stricken with the COVID-19 virus than rural Alaska. Kakanak Hospital is a Critical Access Hospital licensed for 16 beds, a 5-bed Emergency Department, and no ICU capability. The two ventilators available are not equipped with viral

filters and cannot be safely used for COVID-19 treatment. There are only four negative pressure rooms and no respiratory therapy support. Ironically, but not to be taken lightly, this hospital served as an orphanage due to the 1919 flu epidemic. The nearest ICU is 300 miles or more away.

The human medical resources in the region are as constrained as the physical resources. While the population of Bristol Bay swells in the summer, the population of physicians, nurses and healthcare workers does not. In the event of a viral outbreak, the region is hopelessly ill-equipped and unprepared to manage the care of a large volume of highly contagious and seriously ill individuals. These individuals, who will need 24/7 intensive care and support from highly skilled and trained medical professionals, will quickly overwhelm our health care facilities, supplies and workforce. This puts our our health care workers and communities at greater risk while denying these resources to the residents of the region's twenty-eight communities that rely on Kakanak hospital as their lone source of healthcare.

The risks presented do not extend only to the arriving fisheries workers. Residents of Bristol Bay also will be at risk of infection, as well as the risk that their needs for other, non-COVID-19 medical care will be displaced or precluded by the urgency of providing care for individuals infected with the virus. The risks also extend beyond Bristol Bay residents. As we have seen, the COVID-19 virus is highly contagious and spreads rapidly; as a result, all Alaskans, from Barrow to Ketchikan, will be at risk. Without effective action by the state, these circumstances create the perfect recipe for a COVID-19 hot-spot and a medical and regional disaster that, in terms of the loss of human life, would dwarf the 1964 Earthquake or any past disaster in Alaska.

Responsibilities of the State and Required Actions. The State of Alaska has no higher or more critical duty than to protect its citizens. Indeed, the duty is constitutional, as the right to life is enshrined in Article I, Section 1 of the state constitution. In the face of the serious, unprecedented, and unique risks COVID-19 virus presents to the Bristol Bay community, the state has a duty to take all measures necessary to protect its citizens. Those measures include, at a minimum:

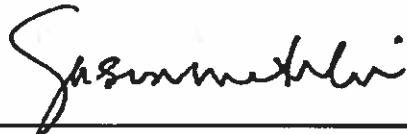
(1) a program of rigorous enforcement to ensure compliance with current CDC and state guidelines and recommendations, (2) pre-testing for the COVID-19 virus of all fisheries workers before they board a plane for the Bristol Bay region, (3) a mandatory follow-up COVID-19 test and 14-day quarantine for all arriving fisheries workers, (4) a program to ensure enforcement of and compliance with the quarantine, and (5) compliance with any additional medical protocols and guidelines as may be issued by the CDC or the state. *Please see Bristol Bay's detailed outline of recommended protocols attached to this letter.*

Our local municipality & medical facilities do not have the capacity to execute or enforce these critical measures, warranting swift and necessary action by the State of Alaska. **If these steps to protect human health and safety cannot or will not be taken, the state should close the Bristol Bay fishery for 2020.** The long-term cost of allowing a fishery to go forward would far outweigh the cost of forgoing one season. If the fishery is allowed to go forward without these measures, ignoring the warnings of public health experts and officials and the pleas of

Bristol Bay communities, the consequences will be devastating and generational. Spread of the COVID-19 virus and the resulting human, economic, and social consequences will not be the result of an Act of God, but will be the result of the state's failure to act and to fulfill its fundamental duties to its citizens.

Thank you for your attention to this most pressing and critical of issues. If we can provide additional information or assistance, please reach out to our point of contact, Norman VanVactor via phone at (907) 843-2508 or email at norm@bbedc.com.

With utmost urgency & concern,



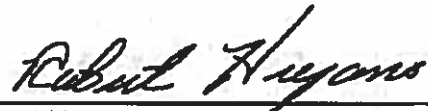
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Bristol Bay Protocols for 2020 Salmon Season

To prioritize human health and safeguard our communities from the risk of catastrophic loss due to the COVID-19 crisis, the Bristol Bay Working Group supports the following protocols for 2020 operations of the commercial salmon fishing industry in Bristol Bay. Based on the COVID-19 virus information from the Center for Disease Control and the examples of the spread worldwide, the following are necessary measures for the health and safety of our region's people and all who work in Bristol Bay. This is our unified message that we will be conveying to our State Government. In addition, please honor the restrictions outlined in local municipal and tribal ordinances.

Applies to: All ports of entry into Bristol Bay communities (air, sea, land, etc.)

Pre-Arrival Criteria (traveling into Bristol Bay communities) :

- All "Essential Critical Infrastructure" workers & businesses associated with the commercial fishery will need to demonstrate that they are participants within an Industry COVID-19 Health Response Plan.
- Certified Health Providers Physical Exam conducted within a maximum of 48 hours of commencing transportation to Bristol Bay. Minimum criteria for approved physical exam: Negative COVID-19 Test

Upon Arrival:

- Individuals will be transported (via Industry Health Response Plan designated transport) directly from airport to destination of quarantine and remain in controlled quarantine until a follow-up negative COVID -19 test is confirmed (*within time range determined by medical protocol*).
- Any individuals within the confines of a community are subject to two health screenings per week (criteria for this screening is still being developed).
- Anyone with a State of Alaska Identification Card or Driver's license with a home address in Bristol Bay will conform to SOA travel requirements and their fishing company's Industry Health Response Plan.
- Post quarantine release, fishermen and seafood employees will abide by local municipal, tribal, & state ordinances and recommendations for healthy conduct and practices within the community.

Industry COVID-19 Health Response Plan will also include:

- Working with or contracting with approved health care providers for employees and fishermen pre-arrival & post-arrival screenings.
- Controlled transportation for employees and fishermen to quarantine locations.
- Logistical support services for employees and fishermen for quarantine period and post quarantine period.
- Weekly health screenings. *[to be defined by medical protocol]*
- In the event of COVID-related medical issues, industry is strongly encouraged to provide medical assistance to their employees and fishermen to supplement and support the *very limited capacity of local medical providers*.
 - If needed, industry will provide their own isolation facilities.
 - Industry will provide medical evacuation plans.

These protocols represent minimum elements which must be included in all Industry COVID-19 protocol plans to operate in Bristol Bay, effective immediately. Failure to comply by employees or fishermen will result in immediate termination of market and removal. Non-compliance by a company or business will result in significant consequences. As technology and conditions change, this protocol will be re-evaluated on an ongoing basis, but no later than 5/01/2020.

The Bristol Bay Working Group is open to discussions with Industry on potential options for controlled quarantine scenarios and or private charter transport directly into the community of operation. Since commercial fishing is deemed by the federal government as an "Essential Critical Infrastructure," we are committed to advocating in unison with the fishing industry for appropriate testing equipment and resources needed to meet these requirements.

We look forward to working with all sectors to ensure the health and safety of fishery participants and local communities is our