

February 14, 2025

Douglas Burgum
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240
via email: douglas_burgum@ios.doi.gov

RE: DOI Treatment of Tribal Nations in Implementation of Administration Priorities

Dear Secretary Burgum:

On behalf of the undersigned organizations that collectively serve the majority of sovereign Tribal Nations and their citizens and communities, we write to congratulate you on being confirmed as Secretary of the U.S. Department of the Interior (DOI). Your experience serving as the Governor of North Dakota, a state rich in Tribal heritage, means you bring with you a wealth of knowledge regarding the unique legal status of Tribal Nations. We request a meeting with you as soon as possible to discuss implementing President Trump's priorities in a manner that recognizes the sovereign governmental status of Tribal Nations and the United States' longstanding trust and treaty obligations.

We welcome your appointment, given your depth of experience and partnership with the Tribal Nations who share geography with North Dakota and your stated commitment to replicate these relationships across Indian Country, including during your remarks at the National Congress of American Indians Executive Council Winter Session. We look forward to working with you to deepen your appreciation for the unique circumstances facing Tribal Nations, to help you recognize and respect Tribal sovereignty, and to ensure that trust and treaty obligations are upheld at DOI and all levels of the federal government.

We applaud the commitment you made to Tribal Nations when you noted in your opening statement your experiences as Governor of North Dakota:

“[W]e prioritized tribal engagement through mutual respect, open communication, collaboration, and a sincere willingness to listen. At Interior, we will strengthen our commitment to enhancing the quality of life, promoting economic opportunities, and empowering our tribal partners through those principles.”

Protect Tribal Sovereignty and Trust and Treaty Obligations as Administration Implements Priorities

Although we look forward to working together, we are extremely concerned that the Trump Administration has issued a series of Executive Orders that continue to impact Tribal Nations and Native people. You are entering federal service at a time when Tribal Nations do not feel Tribal sovereignty and trust and treaty obligations are being upheld. As you know from [our previous letter](#), the Trump Administration's early actions, such as freezing vital federal funding that the government is obligated to provide to Tribal Nations and releasing proposals that would disrupt

Tribal education, have generated confusion, fear, and real consequences throughout Indian Country.

Tribal Nations are and always have been inherently sovereign governments that have strong political relationships with our Tribal citizens and community members. We govern and police our lands, and we provide services aimed at keeping our communities safe. Tribal Nations also have political, government-to-government relationships with the United States, and we prepaid with our lands and resources for trust and treaty obligations that the United States owes us. The U.S. Constitution singles out Tribal Nations and Native people as unique, and the U.S. Supreme Court has time and again affirmed the principle that United States actions that deliver on trust and treaty obligations to Tribal Nations, Tribal citizens, and Tribal communities do not run afoul of the U.S. Constitution's equal protection requirements.

The United States fulfills its trust and treaty obligations through both the direct delivery of Tribal programs and services and provision of federal funding to Tribal Nations and Tribal organizations serving Tribal Nations. Over time, the United States has created a web of different mechanisms it uses to deploy federal funding to serve Tribal Nations and Tribal communities. Essential services provided by Federal employees include healthcare services through the Indian Health Service, law enforcement and public safety through the Bureau of Indian Affairs, and educational services through the Bureau of Indian Education—not to mention countless other essential and legally mandated services. Any Tribal program or funding delivered to Tribal Nations—including through Urban Indian Organizations and Tribal organizations serving Tribal Nations—is provided in furtherance of the United States' trust and treaty obligations. The federal employees necessary for the functioning of those Tribal programs and the disbursement of those Tribal funds are also part of the trust and treaty obligations. The United States further has a duty to consult government-to-government with Tribal Nations on federal actions that may have Tribal implications, including implications on delivery of trust and treaty obligations. These actions are not discretionary; they are legal obligations rooted in treaties, trust obligations, the U.S. Constitution, and long-standing federal statutes.

We note, and greatly appreciate, DOI Secretarial Order 3416, which recognized that trust and treaty obligations to Tribal Nations and associated statutory authorities are legal requirements that must not be impaired while implementing President Trump's Executive Orders. We are hopeful that other federal agencies will issue similar affirmative statements. Already, the U.S. Department of Health and Human Services (HHS) issued a notice dated February 6th stating that the Executive Order affecting diversity, equity, and inclusion programs does not apply to programs or activities that affect or serve American Indians and Alaska Natives, in part because Tribal Nations are separate sovereigns. Furthermore, on February 4th, HHS announced that the Office of Personnel Management had granted the Indian Health Service a partial exclusion from the deferred resignation program.

Despite these statements, we know that, even at DOI, some Indian Country federal funds remain frozen—representing a misalignment with your stated intentions and DOI's actual practices. To further support your expressed commitments, we request that you immediately engage with Tribal Nations as we work to unwind and navigate the impacts of these actions. And we ask that you take immediate steps to ensure DOI practice aligns with its affirmative statements. We also

urgently call on you to exempt from any workforce reductions all employees of the Bureau of Indian Affairs, Bureau of Indian Education, all Tribal offices throughout all Federal agencies, and all other Federal employees whose role is to deliver services or funding to Tribal Nations or their citizens or communities.

In addition, while all branches, departments, and agencies of the federal government share equally in trust and treaty obligations to Tribal Nations, many often look to the Secretary of the Interior to be a leader in promoting and upholding this solemn charge, including through the convening of the White House Council on Native American Affairs. We ask that you take on a leadership role within the Cabinet to ensure that the President and your colleagues across the Administration have a full appreciation of the sacred relationship between Tribal Nations and the United States, and fully recognize our inherent sovereignty.

Collaborate with Indian Country on Shared Priorities

We offer the following items for further exploration and discussion, as the Trump Administration continues to develop its relationship with Tribal Nations and implement its priorities.

Recognize Tribal Nations' and Tribal Citizens' and Communities' Political Status

Increasingly, Tribal Nations' political status under the Constitution has come under attack. As you are aware, for the reasons described above, the United States may lawfully deliver on its trust and treaty obligations to Tribal Nations, Tribal citizens, and Tribal communities without running afoul of the U.S. Constitution's equal protection requirements. Indeed, our different treatment is often *required* so that the United States can carry out its obligations to us. The United States must defend the constitutionality of funding, benefits, and services provided to Tribal Nations and Native people and acknowledge that such treatment does not qualify as racial discrimination nor is it part of any diversity, equity, and inclusion (DEI) initiative.

We are particularly concerned that many serving in the Trump Administration are not fully aware of our distinct political status. We urge you to ensure that all DOI directives and orders reflect and uphold this foundational principle. Additionally, we call upon you to help educate your colleagues across the Administration to ensure that a full appreciation for Tribal Nations' and Tribal citizens' and communities' political status is imbued in all Executive branch policy making.

Uphold and Respect Tribal Nations' Sovereign Decision Making

Tribal Nations must have a seat at the table for all federal decision making that may affect Tribal Nations' cultural resources, public health, or sovereignty—whether located on or off Tribal lands. This includes a seat at the table during all discussions about energy development. Just as the United States endeavors to honor the interests of other sovereigns, it must treat Tribal Nations likewise. True respect involves not only engaging in Tribal consultation, but also seeking Tribal consent when taking actions that affect Tribal interests.

Regrettably, none of the Administration's early actions reflect consultation with or consent from Tribal Nations. We are hopeful that, with your leadership and influence, the Administration will

develop a greater understanding of Tribal consultation requirements and ensure that its future actions reflect Tribal Nation guidance.

Promote Fiscal Responsibility While Meeting Financial Obligations to Indian Country

The United States' expenditures on Tribal programs are prepaid by our Ancestors in exchange for taking our lands and resources, and thus this funding is a required expenditure for the United States to meet its trust and treaty obligations and should not be considered discretionary spending. When considering ways to limit federal funding, the United States' trust and treaty obligations should not be on the table. Just as it expects foreign nations to live up to their obligations, the United States must deliver on its own obligations to Tribal Nations.

Reduce Burdens and Use Limitations on Federal Funding for Tribal Nations

We stand ready to partner with this Administration in its efforts to alleviate burdensome regulations and other unnecessary red tape and barriers, which hinder Tribal self-governance and economic development. Many federal sources of funding—including some at DOI—contain unnecessary and inefficient limitations on their use, preventing Tribal Nations from directing the funding in ways that best address our Tribal communities' unique circumstances and priorities. Many also contain burdensome reporting requirements that take away from resources to provide direct services to our communities. Federal funds must be provided to Tribal Nations without unnecessary and inefficient red tape, use restrictions, and reporting requirements. We request that the United States provide additional mechanisms for Tribal Nations to accept all funding directly and via a streamlined and flexible channel, such as through self-determination contracts, self-governance compacts, and PL 477-like funding mechanisms.

Tribal Education as a Core Trust and Treaty Obligation

The federal government's trust and treaty responsibility to Tribal education is one of the oldest and most sacred obligations in the country. With nearly 48,000 Native students enrolled in Bureau of Indian Education-operated or Tribally Controlled Schools, and thousands more benefiting from Tribal charter schools, Tribal programs in public K-12 schools, and in Tribal Colleges and Universities, it is vital that any new policies do not diminish the already underfunded resources allocated to these educational institutions. We request that Tribal consultation and consent be prioritized in decisions regarding the planning and implementation of all new or revised programs directly serving American Indian and Alaska Native (AI/AN) students. It is essential that such programs do not divert funds away from Tribal schools or undermine the current systems supporting Native students. Federal funding for Indian education must be protected to fulfill the trust and treaty obligations and ensure that Tribally Controlled Schools, Bureau of Indian Education schools, Tribal charter schools, and other institutions serving AI/AN students are sustained.

Restoration of Tribal Homelands and Support of Tribal Economic Sovereignty

Tribal Nations continue to work to reacquire title and jurisdiction over our homelands, which are fundamental to our existence as sovereign governments and to our ability to thrive as vibrant, healthy, self-sufficient communities. Jurisdiction over a territorial land base is at the heart of

sovereignty. In fulfillment of trust and treaty obligations to Tribal Nations, the federal government must support healthy and sustainable Tribal Nation governments, which fundamentally includes the restoration of lands and territorial land bases to all federally recognized Tribal Nations, including through trust acquisitions, as well as the legal defense of these acquisitions.

Relatedly, we call upon you and this Administration to work with us to remove federal barriers to Tribally driven economic development on Tribal lands, including energy development. Tribal economic sovereignty is essential so that Tribal Nation governments may generate revenue and rebuild our economies. However, nearly every aspect of economic development on our lands is controlled by the federal government. The United States must offer relief from the over-burdensome regulations that impede our success, and we believe that our interests align on this priority.

Facilitate Public Safety with Sufficient Funding and Jurisdiction

Federal judicial decisions that limit Tribal Nations' exercise of criminal as well as civil and regulatory jurisdiction within Tribal territories, paired with serious underfunding of federal law enforcement measures on our lands, have created a jurisdictional gap where criminals can act with impunity. The Administration must support removal of all impediments on Tribal Nations' exercise of jurisdiction over all people and activities within Tribal lands, including criminal activity as well as other important types of jurisdiction, such as environmental regulation. The federal government must also properly fund Tribal and federal law enforcement, detention, and justice systems on our lands.

Infrastructure Permitting and Protection of Cultural Resources

The undersigned Tribal organizations strongly support infrastructure development. The development of infrastructure on and off Tribal lands has the potential to be a catalyst to fuel economic development, create jobs for both Native and non-Native residents, and help increase Tribal self-determination. However, infrastructure build-outs in Indian Country and beyond must not occur at the expense of respect for Tribal sovereignty, government-to-government consultation with Tribal Nations, protection of sacred sites, or public health.

All Americans have a recognized right to practice the religion of their choosing and/or heritage. For Tribal Nations, practicing our religions often requires access to, and preservation of, sacred sites and cultural heritage items. The United States must honor Tribal Nations' and Native peoples' religious rights no less than any other American.

Engage with Us in Open Dialogue

We view this communication as the first in what we hope will be a regular and productive dialogue with you and your staff. Each of the issues raised in this letter warrants further discussion and explanation. With this in mind, we propose an in-person meeting between you and the leadership of our respective Tribal organizations at your earliest convenience. We would welcome the opportunity to provide you with further information and insight. And we would like to be your partners in ensuring that the sovereignty of Tribal Nations across the country and the United States' trust and treaty obligations are recognized and upheld.

President Trump's first Administration recognized the important status of Tribal Nations and saw Indian Country as a strong partner, particularly during the COVID-19 pandemic when the Administration supported local government control and access for Tribal Nations to set-asides of federal funds that directly addressed Tribal priorities and circumstances. With this in mind, we ask that you and your staff work with us to ensure that DOI's implementation of the Administration's priorities does not harm Tribal Nations or Tribal Nation citizens. Each of the mandates issued by the Administration has acknowledged that it does not affect ongoing legal requirements, and Indian Country programs are legally required by trust and treaty obligations and associated implementing statutes. ***Tribal Nations' exercise of our sovereignty and the United States' delivery on its trust and treaty obligations must not become collateral damage in the Administration's implementation of its priorities.***

Thank you for your leadership on these important issues. We invite you to meet with us so that we may work together to ensure Indian Country's seat at the table as this Administration takes shape.

Sincerely,

Affiliated Tribes of Northwest Indians
American Indian Higher Education Consortium
Great Lakes Inter-Tribal Council
Great Plains Tribal Chairman's Association
Midwest Alliance of Sovereign Tribes
National Association of Tribal Historic Preservation Officers
National Congress of American Indians
National Indian Child Welfare Association
National Indian Education Association
National Indian Health Board
National Indigenous Women's Resource Center
Self-Governance Communication & Education Tribal Consortium
United South and Eastern Tribes Sovereignty Protection Fund