



WHITE EARTH RESERVATION

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April 24, 2020

TO: Reservation Business Committee Members
FROM: Alan Roy, Secretary/Treasurer
SUBJECT: Secretary/Treasurer Report

White Earth Reservation Business Committee,

A report on the Band's finances is discussed in Section I of this report. Fiscal violations and recommendations can be found in Section II.

If there are any questions or feedback, I can be reached at alan.roy@whiteearth-nsn.gov or 218-983-3285. The Administration is directed to publish a copy of this report to the website, the Anishinaabeg Today, and at the Administration front desk.

Sincerely,

Alan Roy
Secretary/Treasurer

Table of Contents

SECTION I - FINANCIAL REPORT.....	3
Overview.....	3
General Fund.....	4
Fiscal Year 2020 - Quarter 2.....	4
Special Revenue Funds.....	5
Behavioral Health Division.....	5
State of Minnesota.....	5
Gaming.....	6
COVID-19 Response.....	7
Authorization.....	7
Operational Framework.....	7
State of Minnesota Funding.....	8
CARES Act Fund.....	8
Fiscal Year 2020 Fiscal Projection.....	9
Financial Inquiries and Other Information.....	10
COVID-19 Rapid Testing and IHS.....	10
SECTION II - FISCAL VIOLATIONS AND RECOMMENDATIONS.....	11
Audits.....	11

SECTION I – FINANCIAL REPORT

Overview

The RBC's finances are reported annually through a Statement of Net Position and Statement of Activities. The most recent available statements are found in the RBC's Audit Report. These statements provide information about the activities of the Band as a whole and present a longer-term view of the Band's finances.

The Statement of Net Position presents information on all of the Band's assets and liabilities and deferred inflows and outflows of resources, with the difference reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Band is improving or deteriorating. The Statement of Activities presents information showing how the Tribe's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., earned vacation leave).

In the Statement of Net Position and the Statement of Activities there are two kinds of activities:

Governmental Activities – Most of the Band's governmental activities are reported here, which include general government, health services, education, human services, public safety, conservation of natural resources, transportation, economic development, culture and recreation, and community services. Shared taxes, charges for services, interest on investments, governmental contracts and grants, and transfers from the business-type activities finance most of the governmental activities.

Business-Type Activities – The Band's gaming and retail sales are reported here. Fees charged to customers is what primarily finance these activities.

Fund Financial Statements

The fund financial statements provide detailed information about the most significant funds – not the Tribe as a whole. The RBC establishes funds by resolution to help it control and manage money for a particular purpose, or in order to demonstrate that it is meeting legal responsibilities for using certain grants and other money. The two fund types – governmental and proprietary – use different accounting approaches.

Governmental Funds – Most of the Band's basic services are reported in governmental funds. Governmental fund presentation focuses on how money flows into and out of those funds and the balances that are left at year-end and are available for spending. These funds are reported using an accounting method called modified accrual accounting, which measures cash and all other financial assets that can readily be converted to cash. Governmental fund information helps you determine whether there are more or less financial

resources that can be spent in the near future to finance the Tribe's programs. We describe and reconcile the relationship (or differences) between governmental and business-type activities and balances reported in the Statement of Net Position and the Statement of Activities and governmental funds and proprietary funds financial statements.

Proprietary Funds - When the Band charges customers for the services it provides - whether to outside customers, members of the Band or to other units of the Band - these services are generally reported in proprietary funds, which are reported the same way that all activities are reported in the Statement of Net Position and the Statement of Activities. In fact, the enterprise funds (a component of proprietary funds) present the same information as the business-type activities reported in the Tribe-wide statements but provide more detail and additional information, such as cash flows. We use internal service funds (the other component of proprietary funds) to report activities that provide supplies or services for the Band's other programs and activities - the cost of the Band's general, medical, and workers compensation insurance - which are then allocated to the various tribal units and funds. The governmental fund financial statements report the Band's operations in more detail, showing how these services were financed in the short term as well as what remains for future spending. Governmental fund financial statements also report the Band's operations in more detail than the Band-wide statement by providing information about the Band's significant funds.

General Fund

The General Fund includes departments that operate more for the good of the Band members than to make a profit. Departments such as education and public safety are directly involved with the Band members. Other departments are indirectly involved with the Band members but perform functions for the Band's overall good.

As reported through audits, Special Revenue Funds were administered through: General Government, Health Services, Education, Human Services, Public Safety, Conservation of natural resources, Transportation, Economic development, Culture and recreation, Interest, and Public works.

The approved Fiscal Year 2020 RBC General Fund Budget was authorized at the September 2019 Regular Meeting.

Fiscal Year 2020 – Quarter 2

Reporting the revenues and expenditures for the Band's most recent finances will be generated quarterly as substantial changes occur between reporting periods. For example, revenue and expenses arrive infrequently on a monthly reporting basis. This standard applies to all funds and activities. Moving forward, the Band will report the Band's finances with significant changes highlighted at Regular Meetings. The Band's most recent finances can be found below. As with any monthly report the numbers will change significantly. To better

reflect the actual finances of the Band, Quarterly Financials will be provided for the Quarter ending in December, March, June, and September of each year. The unaudited preliminary numbers are subject to change as the numbers are finalized.

For governmental activities, overall year to date from October 1, 2019 to March 30, 2020—the second quarter of fiscal year 2020—combined revenue was \$82.2 million, and expenditures were \$44.0 million. On March 30, 2020, cash on hand was \$65.5 million. However, \$64.5 million is considered Other Governmental Funds; \$43.7 million of these funds belonged to Behavioral Health while the General Fund was \$945,779.

Collective expenditures during this period were \$44.0 million. Other Governmental Funds were \$36.2 million, and the General Fund was \$7.8.

The unaudited preliminary numbers are subject to change as the numbers are finalized.

Special Revenue Funds

The Special Revenue funds are used to account for the activities of various federal, state and other grant programs. This has been reported as *Other Governmental Funds* synonymously. The expenditure of grant funds is legally restricted to specified purposes. Program expenditures are budgeted on a basis of each respective program's fiscal year, which varies by program, and generally may or may not coincide with the Band's fiscal year.

As reported through audits, Special Revenue Funds were administered through: General Government, Health Services, Education, Human Services, Public Safety, Conservation of natural resources, Transportation, Economic development, Culture and recreation, Interest, and Public works.

Behavioral Health Division

The Behavioral Health Division is made of 15 departments that are headquartered on the White Earth Reservation. Some of its programs are delivered in the Twin Cities and Duluth area to assist Band members that do not live on the Reservation.

State of Minnesota

In 2019, Minnesota DHS notified both the White Earth Nation and the Leech Lake Band of Ojibwe that the tribes had been "overpaid" a cumulative total of \$29,000,000.00 (\$29 million). In his FY2020-21 Supplemental Budget Recommendations, Governor Walz recommended \$28,909,000 would go toward reimbursing the cost of repaying the federal government for overpayments made to tribes for Medication Assisted Treatment (MAT) through Indian Health services (IHS). Minnesota has until August 2020 to refund the overpayment to the federal government. Governor Walz made these recommendations to the Minnesota legislature on March 12, 2020. Since March 12, 2020, the United States was significantly impacted by the novel coronavirus (COVID-19) and emergency declarations

were made by the State of Minnesota and the White Earth Nation on March 13, 2020 and March 17, 2020 respectively.

As of the date of this report, there is not an update on whether the legislature will approve Governor Walz's recommendations about reimbursing the cost of the "overpayments." The Minnesota Department of Human Services has not submitted formal notice that it intends to seek repayment from the tribes, though it is anticipated that formal notice is forthcoming especially if the legislature does not approve the budget recommendations made by Governor Walz. Ultimately the issue will be decided by the Minnesota legislature regarding the Governor's proposed budget, and by DHS regarding whether it feels compelled to seek reimbursement of those funds from the tribes. As it stands now, there is no assurance that the tribes will be held harmless regarding this matter.

Given the uncertainty about whether the legislature will approve the Governor's recommendations, attorneys from the White Earth Nation and the Leech Lake Band of Ojibwe continue the discussions involving next steps for the tribes regarding the DHS/MAT overpayment issue. This includes preparing our appeal of DHS's decision to recover the funds from the tribes, as well as formulating a plan to seek a legislative fix at the federal level.

Gaming

Consolidated revenue for Mahnomen, Bagley and all other gaming revenue through the 2nd Fiscal Quarter, ending March 31, 2020 was \$51.5 million. The consolidated expenses through the 2nd Quarter was \$47.9 million. Consolidated net income was \$3.6 million. With a majority coming from Mahnomen, which was \$3.0 million and Bagley earned \$0.6 million.

The budget through the 2nd Fiscal Quarter was \$56.4 million of revenue and \$53.6 million in expenses for a budgeted net income of \$2.8 million for Fiscal Year 2020 as of March 31, 2020. Fiscal Year to Date Revenue was \$5.0 million lower than budget while expenses were \$5.8 million lower than budget resulting in net income being \$0.8 million higher than budget.

The Bagley Casino continues to experience increased revenues and net income. For Fiscal Year 2020 through the 2nd Fiscal Quarter ending March 31, 2020, the property earned \$4.8 million in revenue with expenditures of \$4.2 million. Bagley Casino has a net income of \$0.6 million.

Shooting Star Casino cash on hand was on March 31, 2020 was \$20.3 million. The cash on hand at the close of the last fiscal year, September 30, 2019 was \$23 million. After Shooting Star Casino capital improvement projects and transfers to White Earth RBC cash has dropped by \$2.7 million.

Due to COVID-19 the decision was made to close Shooting Star Casino Mahnomen and

Bagley on March 18th at 5 PM. The casinos remained closed through the end of March, which resulted in March revenue being \$4.7 million below budget and expenses being \$2.8 million below budget, resulting in net income being \$1.9 million below budget. If you remove the impact of COVID-19 on the financial results, the property's net income would have been over \$3 million ahead of plan for the first two quarters of the fiscal year.

The unaudited preliminary numbers are subject to change as the numbers are finalized.

COVID-19 Response

Authorization

The RBC delegated COVID-19 operations to the Emergency Operations Center (EOC) on March 17, 2020. A Declaration of Emergency was enacted by the RBC as COVID-19 was identified as a public health event.

Tribal Resolution

Resolution No. 001-20-036 resolved that the Tribal Emergency Operations plan be used to direct and control Tribal and other assets and fully authorize[d] the White Earth Manager or his/her designee to coordinate all relief efforts in order to save lives, to protect property and public health and safety, and to less or avert the threat of a catastrophe on the White Earth Indian Reservation.

Tribal Funding

Resolution No. 001-20-036 further resolved that the RBC allocated up to \$1 million to be utilized for security, food, medical and energy and other areas deemed necessary under the authorization of the White Earth Emergency Manager during the COVID-19 Public Health Event.

Operational Framework

As the EOC was delegated authority to coordinate relief efforts associated with the COVID-19 Public Health Event, continuity of operations and continuity of government were enacted by the RBC. The explanation below generally describes the operational framework the RBC and the EOC is utilizing during the event.

Generally, under normal operations the RBC and departments deliver services to Band members and other recognized entities. With continuity operations, due to the COVID-19 response, services are transitioned to essential services that continue its delivery to constituents.

The EOC operates under RBC Resolution while the Continuity of Government (COG) subcommittee facilitates COVID-19 specific funds and operations. Within the COG, workgroups have been formed to address grants/loans, billing, operations, and other organizational topics that are brought to the RBC for consideration.

While the RBC has delegated operational authority to the EOC, the RBC still retains fiscal authority and has only delegated limited fiscal authority through established policies and procedures to the EOC.

State of Minnesota Funding

The RBC received \$1 million from the State of Minnesota for its COVID-19 response to use at its discretion in support of the emergency declaration.

CARES Act Fund

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law in the third round of legislative actions related to the COVID-19 pandemic. The CARES Act has several provisions specific to Indian Country in the areas of Economic Development & Employment; Tribal Governance & Housing/Community Development; Health, Education, & Nutrition; and Homeland Security. The CARES Act adds "Title VI- Coronavirus Relief Fund" to the Social Security Act, which appropriates \$150,000,000,000 (\$150 billion) in FY2020 for States, Tribal governments, and units of local government, of which \$8,000,000,000 (\$8 billion) is reserved for Tribal governments. The Secretary of the Treasury must make payments no later than 30 days after enactment of the CARES Act. Tribal governments may only use payments under Title VI to cover costs that (1) are necessary expenses incurred due to "the public health emergency" related to the coronavirus, (2) were not accounted for in the budget approved at the time Title VI is enacted, and (3) were incurred during and between March 1 and December 30, 2020.

White Earth Nation Tribal Submission

The Secretary of the Treasury, in consultation with the Secretary of the Interior and Indian Tribes, was tasked with determining the payment to a Tribal government based on increased expenditures of the Tribal government or its tribally-owned entities relative to its aggregate expenditures in FY2019. Tribal consultations were held on April 2, 2020 and April 9, 2020 for the purposes of providing input about 1) developing a methodology or formula to allocate the money to tribal governments and 2) guidance on what qualifies as necessary expenditures incurred due to the novel coronavirus public health emergency. On April 13, 2020, the Department of Treasury launched its web portal to allow eligible tribal governments to submit data regarding the tribe's population, land base, employees, and expenditures, to be submitted no later than April 17, 2020. The White Earth Nation submitted its requested data on April 16, 2020. On April 22, 2020, the U.S. Department of Treasury released its guidance to recipients about what is an eligible expenditure that can be covered by the CARES Act Fund. The Department of Treasury previously stated that it intended to have the \$8 billion distributed to Tribal governments by Friday, April 24, 2020.

Lawsuit and Alleged National Data Breach

On April 16, 2020, a lawsuit was filed by several tribal governments against Department of Treasury Secretary Mnuchin requesting declaratory and injunctive relief, specifically requesting the U.S. District Court find that Alaska Native Corporations are not "tribal

governments” and preventing Secretary Mnuchin from distributing the funds to any Alaska Native Corporations. On April 22, 2020, Treasury Secretary Mnuchin requested an extension from the Court, indicating that the Treasury Department is unable to start delivering the \$8 billion to tribes until April 28, 2020, which falls after the deadline set by the CARES Act. While the Court granted Secretary Mnuchin’s request for an extension, a conference between the parties and Judge Mehta is set for the morning of April 23, 2020 on the issue of whether the matter is extended to April 24, 2020 or April 27, 2020, with tribal plaintiffs expressing a preference for April 24, 2020. At the time of writing this report, it has not been determined when the matter will be heard or whether Alaska Native Corporations will be included in the distribution of the \$8 billion.

On April 17, 2020, the White Earth Nation received information that tribal governments’ data submitted to the Department of Treasury’s web portal was released without the tribes’ knowledge or authorization. Despite the calls from Indian Country requesting investigation into the matter and the recusal of Assistant Secretary for Indian Affairs Tara Sweeney, there has not yet been an update regarding this breach of information nor how the federal government will address the matter.

Treasury previously stated that it intended to have the \$8 billion distributed to Tribal governments by Friday, April 24, 2020. On Thursday, April 23, 2020, the White Earth Nation received \$2,407,613.00 (\$2.4 million) based on the data it submitted for the CARES Act from the Department of Interior’s Self Governance Funding source.

Fiscal Year 2020 Projection

The RBC budgeted \$17.9 million for Fiscal Year 2020 in the General Fund. Based upon \$9 million from gaming revenue, the RBC was scheduled to receive approximately \$2.25 million each quarter. Other sources of revenue include sales tax reimbursement from the State of Minnesota. Currently, monthly losses due to closure of gaming activity is approximately \$2 million per month. In other words, this monthly loss almost equals a quarterly distribution to the General Fund at the RBC.

Of note, the RBC’s General Fund budget distribution is associated with gaming revenue projections. Currently, there is a budget shortfall of about \$2 million per month from the Casino, which means it affects General Fund planning and anticipated expenditures.

Casino management anticipates only 20% Earnings Before Income Tax, Depreciation and Amortization (EBITDA) when gaming activity resumes. This is likely subject to change depending on market conditions and public health issues and mitigations implemented.

On March 25, 2020 the RBC passed a COVID-19: Stay Home Resolution that remains in effect as of the date of this report. The RBC also passed a motion to provide employees that were sent home for a pay period a full-rate of pay. During this pay period employees were provided a full-rate of pay that was an investment of \$2.25 million from the RBC and \$1.25

million from the Shooting Star Casino. Hazardous duty status is under consideration for emergency declarations and other continuous hazardous duty positions that serve the RBC and its entities.

Organizational Response

As of this report, the RBC discontinued approximately 411 positions due to the losses projected by the suspension of gaming activity. According to Human Resources, this accounts for about 25% in positional reduction. The COG subcommittee and its organizational workgroup are actively assessing the restoration of positions and potential organizational restructure. Financial projections directly affect the capacity of the RBC to restore or restructure positions and investments. A phased approach to either scenario or a combination thereof is probable.

Prioritizing and enforcing Indian Preference for current and future positions shall remain in effect. As of this report, after the organization-wide positional reduction the RBC raised its Native American workforce demographic to 75% while reducing its non-Native American workforce percentage to about 25%.

An opening date to continue gaming activity has yet to be scheduled. However, active discussions are occurring with other Tribal governments on coordinating a unified opening date that incorporates standardized healthcare guidelines and COVID-19 mitigation efforts at gaming facilities.

The priority of the RBC remains the health and safety of its members, employees, and customers. A coordinated response is being organized among Tribal governments.

Financial Inquiries and Other Information

COVID-19 Rapid Testing and IHS

Band members have inquired on the status of White Earth Indian Health Service (IHS) COVID-19 testing and the associated funding stream utilized for its operations. As White Earth IHS possesses non-638 status, the RBC requested IHS officials provide this information to Band members during a RBC Special Meeting held April 21, 2020.

SECTION II – FISCAL VIOLATIONS AND RECOMMENDATIONS

Audits

The continued and approved September 5, 2019 audits were consolidated and reported to the RBC with recommendations in December 2019. An executive summary of associated audits are scheduled to be delivered by the White Earth Legal Department on April 28, 2020. A copy of the audit schedule and status is provided in the table below.

Audit Area	Auditor/Legal	Status	Objective
Behavioral Health Funds (2016)	Hogen Adams Law	Complete	Violation Reporting
Fiscal Year Audit (2019)	Brady Martz	In Progress	Annual Reporting
Other Government Project	Garbow Law	Complete	Violation Reporting
Behavioral Health Funds (2019)	White Earth Tribal Attorney	In Progress	Fiscal Recovery
Great River Energy - Star Lake Casino Arbitration	Garbow Law	In Progress	Fiscal Recovery
White Earth Housing Furnaces	WIPFLI	In Progress	Violation Reporting
Medure Settlement	Gates Law	In Progress	Fiscal Recovery