POLARIS

POLARIS: The Pursuing Opportunities for Long-term Arctic Resilience for Infrastructure and Society

Addressing Climate Impacts in Alaska Native Tribes: Legal Barriers for Community Relocation due to Thawing Permafrost and Coastal Erosion

SUMMARY: ALASKA NATIVE TRIBES ARE AT THE FRONT LINE OF CLIMATE IMPACTS

In September 2022, Typhoon Merbok hit western Alaska, causing flooding across 1,000 miles of coastline and damaging 40 communities. The Federal Emergency Management Agency (FEMA) declared a disaster in the affected areas on September 23, 2022 and released federal funding to help individuals and communities.

This storm is an example of how rural communities in Alaska are at the forefront of climate change impacts in the United States. According to the 2019 Alaska statewide threat assessment report, 29 communities are experiencing significant climate change-related erosion. Further, 38 communities face significant flooding, and 35 have major problems with thawing permafrost. The majority of these communities are predominately Alaska Native.

While there is federal funding available to respond to disasters, reacting to an issue after the fact is more costly than proactive preparation. This challenge is exacerbated by the federal definition of disaster, which excludes issues like erosion and melting permafrost. Federal programs to assist communities facing climate change impacts are limited and result in a piecemeal mix of opportunities subject to numerous restrictions. Programs through FEMA, the Department of Housing and Urban Development (HUD), and the Bureau of Indian Affairs (BIA) provide limited funding to address Alaska Native tribal needs, and application requirements vary considerably across programs.

There are a number of actions that can be taken to help Alaska Native Tribes and communities address the climate impacts they are facing. These potential federal government actions include amending the federal Stafford Act to categorize thawing permafrost and associated coastal erosion as a disaster, building a framework for community relocations, revising benefit-cost analysis to include social and environmental factors, and modifying match requirements for federal grant programs.

THE CHALLENGE

The Alaska communities facing climate change impacts are experiencing legal or regulatory challenges in accessing federal funding to build resilience against these impacts. Some of these challenges include limited interpretation of the "disaster" definition under federal laws; having low benefit-to-cost ratios for projects compared to projects from denser, urban areas; inability to meet matching requirements for hazard mitigation assistance and various federal grants; lack of subscription to National Flood Insurance Program (NFIP); lack of local or tribal mitigation plans; limited funding opportunities for community relocation activities; and last but not least, lack of administrative capacity or technical expertise in some communities to apply for and manage related grants.

Funding is being allocated for community relocation; however, available funding is dwarfed by the need. On November 30, 2022, the Biden administration launched a new program, the Voluntary Community-Driven Relocation program, which delivered $115 million to 11 severely impacted tribes. Three Tribes, Newtok (Alaska), Napakiak (Alaska), and Quinault Indian Nation (Washington State), each received $25 million in relocation grants; eight more Tribes received $5 million each for planning activities for climate resilience and relocation. While this funding is helpful to communities like Newtok, this community's incomplete relocation has already cost more than $100 million.

The Denali Commission, an independent federal agency that provides "critical utilities, infrastructure, and economic support throughout Alaska, focusing on Alaska's remote communities," announced the availability of $35 million for competitive grants that could be used for rural infrastructure projects and workforce/economic development programs. An environmentally threatened community, as identified in the 2019 Statewide Threat Assessment, might receive up to 10 points as an evaluation criterion. Again, this funding is helpful but insufficient compared to what is needed.

OPPORTUNITIES

While an influx of federal funding is helpful, more is needed to address the underlying structural challenges of multiple federal laws. Until the federal government acts on these time-sensitive issues, putting together different federal program grants seems to be the only viable path to start relocation projects; however, applying for and going through the federal grant process requires technical expertise. Where it exists, the federal government could and should fund resilience officers at Alaska Native regional organizations to assist the communities and tribes they serve with navigating federal funding requirements. Parallel to this, the State of Alaska should design a body or designate staff within the Department of Commerce, Community and Economic Development (DCCED) to apply for federal grant programs on behalf of affected communities if requested by them.

This community summary includes an annex that lists possible grant programs (bit.ly/3WuqxHv). While this is not an exhaustive list, Alaska Native Tribes could use these programs to adapt to environmental disasters and climate change impacts. Where information was readily available, funding spent or allocated for Alaska is included. Please review the article below for a longer discussion of these challenges and opportunities.

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MORE INFORMATION

This summary is based on a peer-reviewed journal article by: **Ekrem Korkut, Lara B. Fowler, Kathleen E. Halvorsen, Davin Holen, E. Lance Howe, Guangqing Chi** (2022). Addressing Climate Impacts in Alaska Native Tribes: Legal Barriers for Community Relocation due to Thawing Permafrost and Coastal Erosion. UCLA Journal of Environmental Law and Policy, 40(2). Retrieved from https://escholarship.org/uc/item/2tp07553. For more details, please see the complete publication.

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Eroding bluff in Chevak following Typhoon Merbok, October 2022.

Photograph by Davin Holen, University of Alaska Fairbanks