

USET SPF Alert: Federal District Court Upholds the Integrity of Tribal Governments in Chehalis Case

Dear USET SPF Board of Directors and DC Tribal Reps,

The Federal District Court of the District of Columbia has rendered its decision in the case of *Chehalis et al v. Mnuchin*. In an [opinion](#) [linked] issued this evening, Judge Amit P. Mehta ruled, "Because the court finds that Plaintiffs have made a clear showing that they are likely to suffer irreparable harm in the absence of preliminary relief, that they are likely to succeed on the merits, and the balance of the equities and the public interest favor an injunction, the court grants Plaintiffs' motions—but only in part. The court will preliminarily enjoin the Secretary from disbursing Title V funds to any ANC, but will not direct him at this time to disburse the entire \$8 billion in emergency relief to Plaintiffs and other federally recognized tribes." Importantly, the court found that Alaska Native Claims Settlement Act (ANCSA) corporations are not Tribal governments under Title V of the Coronavirus Aid, Response, and Economic Security (CARES) Act, which set aside \$8 billion to be distributed to Tribal governments.

The case was filed in response to the Administration's position that ANCSA corporations meet the definition of "Indian Tribe" under Title V of the CARES Act and are therefore eligible to be direct recipients of the \$8 billion Tribal governmental set aside in the Coronavirus Relief Fund (CRF). Many Tribal organizations joined an amicus brief in support of the plaintiff's complaint that ANCSA corporations are not Indian Tribes, including the USET Sovereignty Protect Fund, in an attempt to help the court better understand the foundations of our government-to-government relationship. The plaintiffs sought to enjoin the distribution of CRF funding to any ANCSA corporation and instead ensure that the entire \$8 billion is distributed to federally-recognized Tribal Nations only.

"We are pleased Judge Mehta recognized the government-to-government relationship that exists between federally recognized Tribal Nations and the United States, and that Congress could not have intended Tribal government funding to go to for-profit corporations. In understanding this relationship, the judge saw clearly the irreparable harm that would come to Tribal Nations if the Administration's dangerous interpretation of Title V is allowed to stand. Now, we anxiously await to see whether the Treasury Department chooses to appeal, or whether it decides to follow the wisdom of the court and distribute the entire \$8 billion to federally-recognized Tribal governments, which includes the Alaska Native village governments, as Congress intended," said USET SPF President, Kirk Francis. "Our fight to protect our inherent sovereignty and the principles of our centuries old nation-to-nation, government-to-government relationship with the United States is at the center of this case and Indian Country must always remain vigilant in the face of those who seek to undermine our government status. This lawsuit was not about whether any CRF monies should go to Alaska, but about making sure any funding goes to federally-recognized Alaska Native village governments versus for-profit corporations. It will be the sovereign decision of the Alaska Native village governments whether to give any funds to their affiliated corporations."

This evening's decision is a significant step towards ensuring that our government-to-government, nation-to-nation, relationship is honored and a step closer to ensuring that all CRF monies are distributed to federally-recognized Tribal Nations. Tomorrow, the Administration is set to disburse at least a portion of the CRF to Tribal governments and its distribution methodology will become evident. We hope the Treasury Department distributes the entire CRF tomorrow to federally recognized Tribal governments in the lower-48 states and Alaska Native village governments. We will keep you updated as details surrounding the Administration's response develop.

Thank you,

Liz Malerba ~ *Citizen of the Mohegan Tribe*

Director of Policy and Legislative Affairs

United South and Eastern Tribes

Sovereignty Protection Fund (USET SPF)

400 North Capitol Street, Suite 585

Washington, D.C. 20001

Office: 202-624-3550

Cell: 615-838-5906

Fax: 202-393-5218

[www.usetinc.org](http://www.usetinc.org)

***Because there is Strength in Unity***

*USET/USET SPF staff are currently teleworking until May 1, 2020. We will continue to assess the COVID-19 situation and its impact on our operations. We ask for your patience should you experience any challenges reaching any one of our staff. Additionally, please be aware that the USET/USET SPF organization has created a COVID-19 Resource & Information page which is being updated on a frequent basis. <https://www.usetinc.org/wp-content/uploads/2020/03/Coronavirus-Disease-LB.pdf>*



Connect with us!

