

October 26: USET SPF Alert: ANCs Appeal CRF Decision to SCOTUS

Dear USET SPF Board of Directors and DC Tribal Reps,

On Wednesday, October 21st, the Alaska Native Village Corporation Association, Inc., et al filed a [petition for a writ of certiorari](#) (a request for the case to be heard) to the Supreme Court in the case of Confederated Tribes of the Chehalis Reservation et al v. Steven Mnuchin. The petition for cert seeks to appeal a [favorable decision](#) [USET SPF Alert linked] on September 25th in the case, where the U.S. Court of Appeals for the District of Columbia Circuit held that Alaska Native Corporations (ANCs) are not Tribal governments and therefore, are ineligible to be direct recipients of Coronavirus Relief Fund (CRF) resources under the Title V of the CARES Act. In the filing, the Alaska Native Village Corporation Association argues that ANCs do meet the definition of Tribal government and that the U.S. Department of Treasury acted appropriately in designating a portion of the \$8 billion CRF Tribal government set aside for them.

USET SPF continues to hold that for-profit ANCs are not governments, and therefore, do not meet the definition. While we fully support and affirm the eligibility of Alaska Native Tribal Nations and villages, we assert that Congress could not have intended for CRF resources, which were clearly designated for units of government, to be diverted to for-profit corporations. In its interpretation of Title V of the CARES Act, Treasury employed a dangerous interpretation of this term to the detriment of Tribal governments. This is an affront to our Tribal sovereignty and stands in violation of our nation-to-nation relationship with the United States.

In order for the Supreme Court to take up the case ("grant certiorari"), at least four Supreme Court Justices must vote to move forward with a hearing. If the Supreme Court denies certiorari, then the lower court's decision, rendering ANCs ineligible for CRF funds due to their lack of government status, would stand.

We will continue to fight to ensure the foundations of federal Indian law and Tribal sovereignty are not irreparably damaged by the actions of this Administration, including in any case taken up by the Supreme Court. We will be sure to keep you apprised as further information becomes available.

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)
711 Stewarts Ferry Pike [temporary address]
Suite 100
Nashville, TN 37214