

USET SPF Alert: SCOTUS Will Take Up ANC CRF Case January 12, 2021

Dear USET SPF Board of Directors and DC Tribal Reps,

On Friday, January 8<sup>th</sup>, the U.S. Supreme Court [granted certiorari](#) [definition linked] in the case of Confederated Tribes of the Chehalis Reservation et al v. Steven Mnuchin. The case concerns whether Alaska Native Corporations (ANCs) meet the definition of "Indian Tribe" under Title V of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which established the governmental Coronavirus Relief Fund (CRF). The Supreme Court agreed to take the case after the ANCs appealed a lower court's September 25<sup>th</sup> [decision](#) [USET SPF Alert linked], where the U.S. Court of Appeals for the District of Columbia Circuit held that ANCs are not Tribal governments and therefore, are ineligible to be direct recipients of CRF resources. In the petition for certiorari, 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 is deeply concerned by this development, as the Supreme Court, in granting the case and not simply allowing the Appeals Court decision to stand, will now consider what it means to be a Tribal Nation. We continue to hold that for-profit ANCs are not governments, and therefore, do not meet the CARES Act 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.

We will continue to fight to ensure the foundations of federal Indian law and Tribal sovereignty are not irreparably damaged by this case, including through consideration of participation in amicus efforts. We will be sure to keep you apprised as further information becomes available.