

USET SPF Alert: Victory in Chehalis Appeal

Dear USET SPF Board of Directors and DC Tribal Reps,

Today, a favorable [decision](#) [linked] has been issued in Confederated Tribes of the Chehalis Reservation et al v. Steven Mnuchin on appeal at the U.S. Court of Appeals for the District of Columbia Circuit, overturning a [previous ruling](#) [USET SPF alert linked] and paving the way for the possible distribution of the approximately \$500 million remaining in Coronavirus Relief Fund (CRF) resources to Tribal Nations. The case was filed in response to the Administration's position that for-profit Alaska Native Corporations (ANCs) 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 CRF. In the Court's Opinion, Judge Katsas writes,

"Title V of the CARES Act makes funding available "to States, Tribal governments, and units of local government." 42 U.S.C. § 801(a)(1). Alaska Native Corporations are neither "States" nor "units of local government" in Alaska. ANCs thus are eligible to receive Title V funds only if they are "Tribal governments." Title V defines a "Tribal government" as "the recognized governing body of an Indian Tribe," id. § 801(g)(5), and defines "Indian Tribe" as bearing "the meaning given that term" in ISDA, id. § 801(g)(1). So ANCs are eligible for Title V funding only if they qualify as an "Indian tribe" under ISDA. As explained [in the Opinion], ANCs do not satisfy the ISDA definition."

You may recall that USET SPF, along with 11 other Tribal organizations, joined an [amicus brief](#) supporting the plaintiffs' efforts to reverse the DC District Court decision which held that that ANCs are "Indian Tribes," and that their boards of directors are "Tribal governments," for purposes of the CARES Act. The brief argued that only Alaska Native Villages have governmental status and power in Alaska, and therefore, they are the only entities eligible for CRF resources.

Today's decision is a significant step towards ensuring that our government-to-government, nation-to-nation, relationship is honored as the CRF is administered. USET SPF 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. We will be sure to keep you apprised as further information becomes available.

Thank you,

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