

IN THE SUPREME COURT OF THE UNITED STATES

No. 20-543

JANET L. YELLEN, SECRETARY OF THE TREASURY,
PETITIONER

v.

CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION, ET AL.

No. 20-544

ALASKA NATIVE VILLAGE CORPORATION ASSOCIATION, INC., ET AL.,
PETITIONERS

v.

CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION, ET AL.

ON WRITS OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

MOTION FOR DIVIDED ARGUMENT

Pursuant to Rule 28.4 of the Rules of this Court, the Acting Solicitor General, on behalf of the Secretary of the Treasury, respectfully moves to divide the oral argument time for petitioners in the above-captioned cases. This Court consolidated the two cases and allocated a total of one hour for oral argument. We

move to allocate fifteen minutes of oral argument time to the federal government (petitioner in No. 20-543) and fifteen minutes of time to the Alaska Native Corporation (ANC) petitioners in No. 20-544. The ANC petitioners have authorized us to state that they agree with that allocation and therefore join in this motion. Granting this motion would not require the Court to enlarge the overall time for argument.

1. This case concerns the distribution of certain funds that Congress authorized the Secretary of the Treasury to distribute to "Tribal governments" in the CARES Act, Pub. L. No. 116-136, Div. A, Tit. V, § 5001(a), 134 Stat. 501-502 (42 U.S.C. 801(a)(2)). The CARES Act defines "Tribal government" for these purposes as the "recognized governing body of an Indian Tribe." 42 U.S.C. 801(g)(5). And it specifies that "[t]he term 'Indian Tribe' has the meaning given that term in section 5304(e) of title 25," 42 U.S.C. 801(g)(1), which is a provision of the Indian Self-Determination and Education Assistance Act (ISDA), Pub. L. No. 93-638, 88 Stat. 2203 (25 U.S.C. 5301 et seq.). The cross-referenced definition from ISDA in turn defines "Indian tribe" to mean "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [(ANSCA)] (85 Stat. 688), which is recognized as eligible for the special programs and services

provided by the United States to Indians because of their status as Indians.” 25 U.S.C. 5304(e).

The Secretary of the Treasury determined that Alaska native regional and village corporations established pursuant to ANCSA qualify as “Indian tribes” under the ISDA definition incorporated into the CARES Act and that ANCs are therefore eligible to receive the funds at issue. Respondents brought suit to challenge that determination, and the ANC petitioners in No. 20-544 intervened in support of the Secretary. The district court upheld the Secretary’s determination, but the court of appeals reversed, concluding that no Alaska native regional or village corporation satisfies or has ever satisfied ISDA’s definition of “Indian tribe.” 20-543 Pet. App. 1a-27a.

2. This Court granted the petitions for writs of certiorari in both Nos. 20-543 and 20-544 to address whether Alaska native regional and village corporations established pursuant to ANCSA are “Indian Tribe[s]” for purposes of the CARES Act, 42 U.S.C. 801(g)(1). We believe that dividing the argument between the federal petitioner in No. 20-543 and the ANC petitioners in No. 20-544 would be of material assistance to the Court. The federal government has a significant interest in and perspective on the question presented. The Secretary’s determination that ANCs are eligible to be treated as “Indian tribes” for purposes of the CARES Act is directly at issue in the case, and the proper resolution of

that question may have implications for other federal statutes that incorporate the ISDA definition. Likewise, the ANC petitioners have a significant interest in their own eligibility to receive funds under the CARES Act and to be treated as "Indian tribes" under the ISDA definition. The ANC petitioners can also offer the Court a distinct perspective on the role that ANCs play for the benefit of Alaska Natives.

Respectfully submitted.

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