UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

THE SHAWNEE TRIBE, Plaintiff, v. JANET YELLEN, in her official capacity as Secretary of the Treasury, et al., Defendants.	Case No. 20-cv-1999

STATUS REPORT

On January 21, 2021, the Court issued a Minute Order stating that, "on or before February 15, 2021, Defendants shall file a Status Report that advises whether the Treasury Department will re-consider the formula or data used to allocate the population-based distribution of funds under Title V of the CARES Act."

Defendants hereby notify the Court that the Department of the Treasury will construct a revised methodology to determine how Treasury will allocate any funds remaining from the appropriation identified in 42 U.S.C. § 801(a)(2)(B). In constructing this revised methodology, Treasury intends to re-consider the formula and/or data used to allocate the funds to Plaintiffs, and similarly-situated Tribes, under Title V of the CARES Act. Furthermore, the revised methodology will account for both the scenario in which the Supreme Court affirms, and the scenario in which the Supreme Court reverses, the D.C. Circuit decision in *Confederated Tribes of the Chehalis Reservation v. Mnuchin*, 976 F.3d 15, 17 (D.C. Cir. 2020), *cert. granted sub nom. AK Native Vill. Corp. v. Confederated Tribes*, No. 20-544, 2021 WL 77252 (U.S. Jan. 8, 2021), *and cert. granted sub nom. Mnuchin, Sec. of Treasury v. Confederated Tribes*, No. 20-543, 2021 WL 77253 (U.S.

Jan. 8, 2021), as the Supreme Court's decision will impact the availability of funds for additional payments.

Treasury anticipates publishing its revised methodology on or before April 30, 2021. This proposed deadline should provide Treasury with sufficient time to, among other things, consider potential alternatives, settle on an appropriate solution, identify the relevant data and conduct the relevant calculations necessary to execute the revised methodology, and issue a final decision. This amount of time will allow Treasury to account for the multiple factors and eventualities it may face in deciding how best to re-allocate the relevant funds.

In light of Treasury's intention to revise its methodology for distributing the remaining, relevant funds, Treasury requests that the Court stay this matter until Treasury publishes its revised methodology. Once Treasury publishes its revised methodology, the parties may confer and determine whether further proceedings are necessary. Additionally, Treasury further requests that the Court relieve Treasury of its current obligation to produce an administrative record concerning Treasury's initial allocation methodology, which will be immaterial to any potential litigation over Treasury's revised methodology. Treasury will be prepared to discuss these and other related matters at the status conference set for February 17, 2021, and to file a formal request for a stay if necessary.

Dated: February 15, 2021

Respectfully submitted,

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