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April 22, 2021

Scott Harris
Clerk of the Court
Supreme Court of the United States
1 First Street NE
Washington, D.C. 20543

Re: *Yellen v. Confederated Tribes et al.*, Nos. 20-543 & 20-544

Dear Mr. Harris:

A subset of respondents has lodged an extraordinary post-argument letter without citing anything in the Court's rules that would allow a party to extend the argument after the case has been submitted. The letter never actually disavows the Utes' counsel's remarkable claim that the federal government lacks a trust responsibility to Alaska Natives not enrolled in an FRT, and it goes beyond simply clarifying that oral-argument response to launch a (flawed) multi-part argument concerning issues fully addressed in the briefs and at oral argument.

To the extent the Court is inclined to consider post-argument submissions, several errors in the letter merit correction. First, while many services are provided to Alaska Natives by inter-tribal organizations, they are inter-tribal in the ISDEAA sense of "tribe," and depend on authorizations *from ANCs* (a.k.a., ISDEAA "tribes"), particularly in areas where there are Alaska Natives but no FRTs to provide the authorization required by ISDEAA. *See* 25 U.S.C. §5304(*l*). That reality is not limited to some 60,000 Alaska Natives in Anchorage and the Matanuska-Susitna Borough, but exists in Fairbanks, Seward, and Valdez, *see* Dist.Ct.Dkt.45-5. Second, CIRI's eligibility to provide critical ISDEAA services does *not* come from Section 325, the "distinct statut[e]" to which respondents' letter adverts. As CIRI's amicus brief details, CIRI engaged in ISDEAA contracting and compacting *before* Section 325 was enacted and, as the ISDEAA tribe for the greater Anchorage area, is the State's second largest ISDEAA provider, furnishing a wide range of vital social services beyond healthcare. ANCs also play a critical role in other programs like NAHASDA, and *all* are ISDEAA tribes, as Section 325 itself confirms. Finally, not only do numerous federal statutes, starting with ANCSA, authorize ANCs to receive special-federal Indian benefits, but Alaska Natives were eligible for those benefits long before ANCSA and without regard to tribal enrollment. *See Morton v. Ruiz*, 415 U.S. 199, 204-05 & n.6 (1974); *see also* 25 U.S.C. §5321(a)(1). ANCSA then directed every Alaska Native to enroll in an ANC, but not an FRT. That congressional decision, with no analog in the Lower 48, is why all the Alaska-based amici have emphasized the vital role ANCs play and the grave threat posed by the decision below.

Sincerely,

Paul D. Clement

cc: All counsel of record (via ECF)