No. 26-130

In the
# Supreme Court of the United States

TECK METALS LTD.,

*Petitioner*,

v.

THE CONFEDERATED TRIBES
OF THE COLVILLE RESERVATION,

*Respondent*.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

**BRIEF OF THE MINING ASSOCIATION OF CANADA AND THE MINING ASSOCIATION OF BRITISH COLUMBIA AS *AMICI CURIAE* IN SUPPORT OF PETITIONER**


Zoe M. Beiner
Megan Michur
KING & SPALDING LLP
1700 Pennsylvania Ave. NW
Suite 900
Washington, DC 20006

Kelly L. Perigoe
*Counsel of Record*
KING & SPALDING LLP
633 West Fifth Street
Suite 1600
Los Angeles, CA 90071
(213) 443-4355
kperigoe@kslaw.com

*Counsel for Amici Curiae*


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## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

### Cases

**Statutes**



**Other Authorities**

## STATEMENT OF INTEREST[1]

The Mining Association of Canada and the Mining Association of British Columbia ("MABC") jointly submit this *amici curiae* brief in support of Petitioner Teck Cominco Metals, Ltd. ("Teck").

The Mining Association of Canada ("MAC") is the national body representing the mining industry in Canada. It is composed of companies engaged in mineral exploration, mining, smelting, refining, and semi-fabrication. Many of the MAC's members own or operate facilities located near the U.S.-Canada border, or adjacent to cross-boundary bodies of water. Many MAC members operate in both countries, and a significantly large percentage of their products are exported to the United States.

The Mining Association of British Columbia ("MABC") is the voice of British Columbia's metal, mineral and steelmaking coal producers, smelters, and advanced development companies. MABC's members focus on mineral operations or mine development in British Columbia. As with MAC, MABC's members operate facilities near the U.S.-Canada border or adjacent to cross-boundary bodies of water. MABC recognizes the global nature of mining, and its members are dedicated to helping Canada and its allies achieve their decarbonization, technology,

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[1] Pursuant to Supreme Court Rule 37.6, *amici curiae* state that no counsel for any party authored this brief in whole or in part and that no entity or person, aside from *amici curiae* and their counsel, made any monetary contribution toward the preparation or submission of this brief. The parties were given timely notice of *amici curiae*'s intent to file this brief.

and national security objectives through safe and responsible mining practices.

*Amici* submit this brief to elaborate on the significant legal and economic consequences that would be brought about by the expansion of remedies under the U.S. Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") that the Ninth Circuit has now endorsed. CCT seeks damages for cultural losses, which are not used "only to restore, replace, or acquire the equivalent of" the injured resources, 42 U.S.C. § 9607(f)(1), but instead are based on individual CCT members' subjective "perceptions." *See* Pet. 10–11 (citing 4 C.A. S.E.R. 889). The district court correctly determined that such damages, however labeled, are not cognizable under CERCLA. *Amici* respectfully submit that the Ninth Circuit's endorsement of CCT's theory of cultural loss damages subjects its Canadian business members to potentially boundless liability for amorphous cultural harm asserted by any natural resource trustee. Such expansive liability is not supported by the text or purpose of CERCLA.

The Ninth Circuit's decision also runs squarely into its previous determination that this case involves a purely domestic application of CERCLA, because the cultural losses asserted are not attributable to the domestic environmental releases the Court previously identified as the basis for liability. Under the Ninth Circuit's interpretation of CERCLA, businesses operating in Canada, or anywhere else in the world, could be haled into court in the United States based on hyperlocal, subjective sensitivities that are unforeseeable, unquantifiable, and untethered to

CERCLA's text and remedial function. The Ninth Circuit's view defies basic principles of fair notice and due process and would have significant ramifications for transboundary environmental diplomacy.

The MAC, along with the Canadian Chamber of Commerce, has previously expressed concerns in this litigation about the potential damage that unchecked expansion of CERCLA liability could wreak on the North American economy. *See* Brief of *Amici Curiae* the Canadian Chamber of Commerce and the Mining Association of Canada in Support of Defendant-Appellant, *Pakootas v. Teck Cominco Metals, Ltd.*, 452 F.3d 1066 (9th Cir. 2006) (No. 05-35153), 2005 WL 2175369 ("2005 *Amicus* Brief"). Those concerns are amplified by the staggering amount that CCT claims in cultural losses, which is nearly *triple* what CCT jointly seeks with the State of Washington for "natural resource damages." *Amici* respectfully request that the Court grant the petition for certiorari.

## INTRODUCTION AND SUMMARY OF ARGUMENT

The Ninth Circuit's decision permits CCT to wield CERCLA against a foreign company based on how individual members subjectively perceive the River. And the remedies CCT demands do not even address those claimed perceptions, but rather seek to redress alleged cultural losses that it has suffered as a result of historical injustices by the U.S. government. In doing so, the Ninth Circuit endorsed a novel and dramatic expansion of CERCLA that finds no support in CERCLA's text or basic remedial function or the case law interpreting and applying it.

CCT's cultural loss damages theory the Ninth Circuit sanctioned is not only unfounded, but also far-reaching in its effects. In a previous decision in this case, which this Court declined to review at that time, the Ninth Circuit held that Teck, a foreign company operating solely in a foreign country, could be subject to CERCLA in the United States, but it did so on narrow grounds. *Pakootas v. Teck Cominco Metals, Ltd.*, 452 F.3d 1066, 1078 (9th Cir. 2006) (holding that because the leaching of metals and substances from slag that settled in sediments at the site took place in the United States, even if the introduction of the slag into the River did not, the case involved a domestic application of CERCLA). CCT's atextual theory of cultural loss holds Teck liable for damages that are not attributable solely, or perhaps even at all, to the domestic releases that the Court found justified CERCLA's application to Teck. That expansion of CERCLA has thus brought the concerns regarding extraterritorial application of CERCLA that *amici* previously articulated in support of Teck's prior petitions to this Court again to the fore. *See* Brief of *Amici Curiae* the Canadian Chamber of Commerce and the Mining Association of Canada in Support of Petition for Writ of Certiorari at *1–4, *Teck Cominco Metals, Ltd. v. Pakootas*, 552 U.S. 1095 (2008) (No. 06-1188) (mem.), 2007 WL 1318988 ("2007 *Amicus* Brief"); *see generally* 2005 *Amicus* Brief.

Chief among those concerns is the undemocratic nature of extraterritorial laws, a concern that is compounded by the due process problems that arise from seeking to hold a defendant liable for the undefined cultural losses that CCT claims. Pet. 23. Subjecting foreign companies to liability based on the vagaries of any natural resource trustee's subjective perceptions of "cultural loss" would deprive those companies of any meaningful opportunity to understand their potential exposure ex ante. Fundamental principles of due process, which ensure that a party has fair warning of its potential liability, do not countenance such unpredictability.

The Ninth Circuit's expansion of CERCLA also threatens the viability of international efforts to engage in cooperative, effective, and sustainable environmental policy. Under the Ninth Circuit's decision, any natural resource trustee, including any individual state, could leverage CERCLA against a foreign entity to seek damages for perceived cultural loss. The risk that a rogue state could trigger reciprocal action by a foreign sovereign, undermine government-to-government solutions, and threaten international environmental diplomacy cautions heavily against the expansion of CERCLA that the Ninth Circuit has sanctioned.

That *amici* object to CERCLA as the means to address CCT's historical cultural harms should not be taken as a denial of the reality or significance of those harms. CCT and other indigenous peoples throughout North America have undeniably suffered tremendous loss as a result of historical injustices, including forced assimilation, land-taking, and cultural repression, particularly at the hands of the federal government. But CERCLA, a strict liability environmental statute narrowly concerned with cleaning up of hazardous waste sites and restoring natural resources, is an improper vehicle to redress those harms. The complex, multifaceted nature of CCT's asserted injuries only underscores why they cannot, and should not, be redressed piecemeal on a trustee-by-trustee basis through private CERCLA litigation against an individual foreign entity.

## ARGUMENT

### I. The district court correctly rejected CCT's novel and unsupported theory of damages for alleged cultural losses.

In granting Teck's Motion for Partial Summary Judgment, the district court adhered to the spirit and the letter of CERCLA in determining that CCT's claims for damages related to alleged cultural injuries fail as a matter of law. As Teck correctly explains in its petition for certiorari, the cultural losses that CCT seeks to recover are not cognizable under CERCLA, nor can they be accurately characterized as "natural resource damages" ("NRDs") under the statute.

CERCLA provides that sums recovered as NRDs must be used "only to restore, replace, or acquire the equivalent of such natural resources." 42 U.S.C. § 9607(f)(1). That limit provides the statute's operative boundary: every dollar of NRD recovery must be tied to the restoration or replacement of specific injured resources. Rather than engage with this provision, which governs liability, the Ninth Circuit grounded its holding in Section 9651—a miscellaneous provision entitled "Reports and studies."

But CERCLA's text and structure confirm that the district court's reading was correct. CERCLA allows private litigants to recover NRDs, which the statute defines as "damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from [a release of a hazardous substance]." 42 U.S.C. § 9607(a)(4)(C), (f)(1). Natural resources covered by CERCLA include "land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources" that belong to, are managed by, are held in trust by, or pertain to or are controlled by the United States, state or local governments, or Indian tribes. *Id.* § 9601(16). The purpose of CERCLA, including its provision of NRDs, is to "impose[] liability for cleanup costs on the parties responsible for the release or potential release of hazardous substances into the environment." *Pakootas*, 452 F.3d at 1072. Nothing about CERCLA's definition of "natural resources," its focus on physical injury to those resources, and the restriction of recovered funds to natural resource restoration so much as suggests that Congress intended the statute to also compensate individuals for subjective cultural losses.

In this action, CCT and the State of Washington jointly seek hundreds of millions of dollars in NRDs, primarily related to alleged injury to benthic macroinvertebrates (fly larvae). But separate from and in addition to those NRDs, CCT asserted a "'tribal service loss'" claim, which on appeal it labeled "interim lost use," and which the Ninth Circuit characterized as "interim lost uses of injured natural resources … where the diminished uses have a cultural dimension." *See* App.8a n.2, 10a. No matter the label, that claim is premised on allegations that Teck should be held liable for the CCT members' subjective "perceptions" of "contamination" of the Upper

Columbia River ("River"), which CCT alleges caused members to avoid interacting with the River and therefore negatively affected CCT's professed cultural and spiritual connection to the River. *See* Pet. 10–11 (citing 4 C.A. S.E.R. 889). CCT sought as much as $538.6 million to redress that supposed injury, including a $114.6 million "cultural restoration" project to restore members' confidence in the River that contemplates reacquisition of land taken by the U.S. government in 1892 and the construction of a longhouse, greenhouse, retreat, pit house, and cultural center. *See* App.29a–34a. None of those expenditures would "restore," "replace," or "acquire the equivalent of" any benthic organism or fish—the only purposes for which § 9607(f)(1) permit recovery.

The district court correctly concluded that such losses are not cognizable under CERCLA as a matter of law. That conclusion is consistent with the holdings of the Tenth Circuit and the two district courts to have considered the issue. *New Mexico v. Gen. Elec. Co.*, 467 F.3d 1223, 1245 (10th Cir. 2006); *Coeur d'Alene Tribe v. Asarco Inc.*, 280 F. Supp. 2d 1094, 1107 (D. Idaho 2003); *In re Gold King Mine Release in San Juan Cnty., Colorado, on Aug. 5, 2015*, 669 F. Supp. 3d 1146, 1156 (D.N.M. 2023). CERCLA imposes strict liability on a broad class of defendants with relaxed causation requirements and narrow defenses. Congress did not pair that sweeping liability with open-ended recovery for subjective harms. *See E. Airlines, Inc. v. Floyd*, 499 U.S. 530, 551–52 (1991) (refusing to extend strict liability under international air-carrier treaty to "purely mental distress" absent convincing textual evidence). For these reasons, and the additional reasons set forth in Teck's petition, the Court should grant certiorari to correct the Ninth Circuit's error and provide much needed guidance to the divided Courts of Appeal.

## II. The Ninth Circuit's expansion of CERCLA to cover cultural losses renews concerns about impermissible extraterritorial application of CERCLA.

The Ninth Circuit's endorsement of CCT's cultural-loss theory departs from the narrow ground on which it previously applied CERCLA to Teck. That departure creates two related problems. First, it exposes foreign companies to open-ended liability for subjective cultural harms without a workable limiting principle. That uncertainty deprives them of any meaningful way to assess their exposure ex ante and upends their investment-backed expectations. Second, the theory violates bedrock principles of due process and fair notice.

Nearly twenty years ago, the Ninth Circuit held in this case that Teck, a Canadian company operating entirely in Canada, could be held liable in the United States under CERCLA for "entirely domestic" releases. *Pakootas*, 452 F.3d at 1075. It based that result on a strict textual analysis of CERCLA.

Under that prior decision, CERCLA applies domestically only insofar as CCT seeks to hold Teck liable for costs specifically associated with the heavy metals and hazardous substances that have passively migrated from the slag into the River Site. But the damages for cultural losses that CCT seeks, and that the Ninth Circuit has now sanctioned, measure neither the cost of cleaning up those substances at the site nor the cost of restoring natural resources injured by those substances at the site. Those are the only permissible uses of damages recovered under CERCLA. *See* 42 U.S.C. § 9607(a)(4). Nor did the Ninth Circuit's decision require a link between the *only* CERCLA "release" it previously held was "entirely domestic"—the passive movement of chemicals from the slag at the Site into the environment—and the cultural losses for which it now permits CCT to seek damages. *Pakootas*, 452 F.3d at 1075.

By sanctioning CCT's claim for cultural loss damages in this way, the Ninth Circuit has revived a question this Court has not yet resolved: whether CERCLA may be applied extraterritorially to a Canadian company that operates solely in Canada in accordance with Canadian environmental regulations. The answer matters all the more here, because the Ninth Circuit's decision aggravates the extraterritoriality problem in two respects.

First, the Ninth Circuit's rule deprives foreign companies of any meaningful way to assess their risk or exposure in advance. As *amici* warned when the extraterritoriality issue was first presented to the Ninth Circuit and then to this Court in connection with Teck's 2007 Petition for Writ of Certiorari, the extraterritorial application of CERCLA to foreign companies operating at the United States border could threaten destabilization of the North American economy by subjecting thousands of companies "to the unpredictable vagaries of litigation by private litigants in U.S. courts under U.S. environmental laws." 2005 *Amicus* Brief at 7. That concern is significantly amplified under a CERCLA regime that allows trustees to recover damages from foreign companies for wholly subjective, remote, cultural harm that is wholly independent of the restoration of natural resources.

Indeed, the potential for such amorphous claims would make it virtually impossible for foreign companies to perform any meaningful assessment of risk or exposure ex ante, which could chill those companies from performing vital roles in the North American economy. Under the Tenth Circuit's framework, a defendant's exposure is bounded by the cost of restoring injured natural resources plus any concrete lost use during the interim period—and even that remedy "must be tailored to redress specific injury to the State's role as trustee." *Gen. Elec.*, 467 F.3d at 1245, 1250 n.39. The Ninth Circuit's decision offers no comparable limiting principle; a company's liability turns instead on whatever subjective perceptions any trustee's constituents might harbor. That uncertainty would work a significant disruption in those foreign companies' investment-backed expectations and risk assessments. And subjecting foreign companies to the "unpredictable vagaries" of perceived cultural harm would run afoul of basic principles of democratic governance, due process, and fair notice.

"Extraterritorial laws regulating foreigners are inherently undemocratic and impose obligations on individuals and groups who have no formal voice in the political process and who have not consented to those laws." Austen L. Parrish, Morrison, *The Effects Test, and the Presumption Against Extraterritoriality:*

*A Reply to Professor Dodge*, 105 Am. Soc'y Int'l L. Proc. 399, 401 (2011); *see also* Mark P. Gibney, *The Extraterritorial Application of U.S. Law: The Perversion of Democratic Governance, the Reversal of Institutional Roles, and the Imperative of Establishing Normative Principles*, 19 B.C. Int'l & Comp. L. Rev. 297, 308 (1996) (opining that extraterritorial applications of United States law to foreign companies is "anti-democratic in nature"). Even when correctly interpreted to limit damages to NRDs only, applying CERCLA to foreign companies operating wholly in Canada raises grave concerns about "the right to self-governance and self-determination." Parrish, 105 Am. Soc'y Int'l L. Proc. at 401. Especially in highly regulated areas like environmental law, the extraterritorial application of United States law to foreign companies poses unique concerns because the "obvious" "probability of incompatibility with the applicable laws of other countries." *Morrison v. Nat'l Austl. Bank Ltd.*, 561 U.S. 247, 269 (2010).

Second, the Ninth Circuit's decision endorsing CCT's cultural loss theory only heightens those concerns because it also expands liability beyond the strict letter of the law, implicating bedrock principles of due process and fair notice. The fundamental principle guiding a U.S. court's exercise of power over a foreign person or entity is "[t]he requirement of fair notice," which requires a "fair warning that a particular activity may subject a person to the jurisdiction of a foreign sovereign." *Shaffer v. Heitner*, 433 U.S. 186, 218 (1977) (Stevens, J., concurring). The law must provide "fair warning . . . in language that the common world will understand, of what the law intends to do if a certain line is passed. To make the warning fair, so far as possible *the line should be clear*." *McBoyle v. United States*, 283 U.S. 25, 27 (1931) (emphasis added). The Due Process Clause ensures the "'orderly administration of the laws'" by "giv[ing] a degree of predictability to the legal system that allows potential defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980) (quoting *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 319 (1945)). Due process also demands that regulated parties receive "fair notice" of the "severity" of damages. *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 417 (2003) (quoting *BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 574 (1996)). The Ninth Circuit's "freewheeling," "open-ended" valuation of harm provides no such notice. *Cf. Sackett v. EPA*, 598 U.S. 651, 681 (2023) (narrowly construing federal environmental statute). This expansion raises "serious constitutional questions" that a narrower reading avoids, particularly given CERCLA's imposition of strict liability. *Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 540 (2015).

The Ninth Circuit's expansion of CERCLA to encompass cultural loss claims offers neither the clarity nor predictability that fair notice and due process require. Canadian companies operating solely in Canada (and other foreign companies operating solely outside of the United States) cannot operate with *any* "minimum assurance" as to when they could or could not be haled into a U.S. court because nothing in the language of CERCLA itself provides any guidance or limits on what a natural resource trustee may claim as a subjective cultural or spiritual injury. The indefinite and potentially boundless nature of cultural loss damages fails to provide the minimum "fair notice" that due process requires, so the Court should reject that theory of CERCLA damages.

## III. Expanding CERCLA to claims based on harms subjectively perceived by trustees threatens to disrupt international stability.

The expansion of CERCLA that the Ninth Circuit has now sanctioned would also have wide-ranging impacts because natural resource trustees are not limited to tribal nations and the U.S. government, but also include each of the 50 states. *Amici* and their members have long prioritized international cooperation and coordination on transboundary environmental issues, and the expansion of CERCLA liability to encompass subjective cultural harms threatens to undermine those collaborative efforts. *Amici* previously alerted the Ninth Circuit and this Court to the risk that the use of private CERCLA litigation as a means of resolving international environmental problems could spur future international conflicts and tit-for-tat litigation over transborder issues, including pollution—a concern that is no less salient now. *See* 2007 *Amicus* Brief at *5–12. The threat of this type of international retaliation would only be amplified by an extension of CERCLA liability to cover subjective perceptions of injury to the government.

As Teck observes, tribes are on equal footing in pursuing natural resource damages under CERCLA with state or federal trustees. The corollary to that principle is that if certain damages or types of loss are cognizable in a CERCLA lawsuit brought by tribal trustees, so too could those damages be available to state and federal trustees. Taking CCT's cultural theory to its logical limit, any state resource agency, acting on behalf of the "public," could assert claims against a private, foreign company based on subjective perceptions of harm to the environment asserted by its constituents. A state could attempt to recover cultural loss damages because residents' "perceptions" of offshore pollution from a foreign company's oil spill would interfere with their enjoyment of annual Fourth-of-July celebrations in a coastal community. Another state could attempt to recover damages for perceived cultural loss to its residents' generations-old tradition of communal meteor shower viewing in response to atmospheric haze traced to a foreign manufacturer's facility overseas. CCT's cultural loss theory has no foundation in the text of the statute, and consequently, nothing in the statute sets an outer limit on how its theory might be invoked by any natural resource trustee.

A state's ability to insert itself into international environmental matters threatens to interfere with foreign relations. Policy matters of international significance, including transboundary environmental issues, "uniquely demand single-voiced statement of the Government's views." *Baker v. Carr*, 369 U.S. 186, 211 (1962); Anagha Sundararajan, *Foreign Affairs Federalism: The Doctrine of Foreign Affairs Preemption and State Regulation in Light of the Paris Agreement*, 55 U.S.F. L. Rev. 363, 394 (2021) (noting that state efforts to effectuate international agreements related to climate change could "run contrary to the principle of foreign affairs preemption"). A state seeking to take such cultural matters into its own hands through CERCLA litigation could thwart the United States' ability to participate in productive and sustainable government-to-government solutions to address transborder pollution issues.

Even more troublingly, such acts by a rogue state could trigger international escalation and reciprocation by other sovereign states with grievances against polluters in the United States, who could be perceived as the cause of cultural losses in those states. *See* Austen L. Parrish, *Trail Smelter Déjà Vu: Extraterritoriality, International Environmental Law, and the Search for Solutions to Canadian-U.S. Transboundary Water Pollution Disputes*, 85 B.U. L. Rev. 363, 410–11 (2005) (explaining concern that "Canada might successfully use legal rather than diplomatic means to punish U.S. polluters"). Given the significant foreign and economic policy interests at stake, and the risk of exacerbating international discord, the Court should decline to permit the Ninth Circuit's expansion of CERCLA.

## IV. CERCLA litigation is not an appropriate mechanism to remedy the undeniable harms indigenous peoples in North America have suffered.

*Amici* recognize the devastating injustices suffered by CCT and other indigenous peoples in the United States and throughout North America. This submission should not be viewed as an attempt to undermine the reality or seriousness of cultural and spiritual losses those groups have faced as a result of forced assimilation, governmental land-taking, and other injustices. *Cf. Haaland v. Brackeen*, 599 U.S. 255, 297–306 (2023) (Gorsuch, J., concurring) (recounting history of "devastating" federal policies aimed at "destroying tribal identity and assimilating Indians into broader society"); *McGirt v. Oklahoma*, 591 U.S. 894, 897 (2020) (describing the forced removal of the Creek Nation from their ancestral lands). *Amici*, however, harbor serious concerns about employing CERCLA litigation to remedy those multifaceted and multigenerational harms. CERCLA is a strict-liability environmental statute with the narrow purpose of "impos[ing] liability for cleanup costs on the parties responsible for the release or potential release of hazardous substances into the environment." *Pakootas*, 452 F.3d at 1072. CERCLA was simply never intended to rectify the types of injuries for which CCT seeks to recover, and the Court should not interpret it to do so now.

Of particular concern with the use of CERCLA to address CCT's cultural losses is the infeasibility of establishing a causal nexus between a particular foreign company's actions and the asserted injury. As CCT representatives have recognized, the construction of the Grand Coulee Dam on the Columbia River—which had nothing to do with Teck—"changed forever the livelihood and lives of our people and the very nature of the Colville reservation," and those impacts continue to the present day. 2 C.A. S.E.R. 261; 2 C.A. S.E.R. 269. Other factors, including land-takings and forced relocation, also undeniably have contributed to CCT's cultural losses.

Indeed, the U.S. government has redressed historical harms suffered by CCT through specific settlements. In 1994, Congress approved a $53 million settlement to resolve CCT's lawsuit arising out of the construction of the Grand Coulee Dam. Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act, Pub. L. No. 103-436, § 4, 108 Stat. 4577, 4578 (1994). In 2012, the United States entered another settlement agreement with CCT, this time for $193 million, for mismanagement of tribal lands. *Confederated Tribes of the Colville Reservation v. United States*, 171 Fed. Cl. 622, 630 (2024) (noting that in exchange for $193 million, the Tribes "agreed to a broad waiver and release of claims" in settlement of trust mismanagement suit filed in 2005 (quotation marks omitted)).

There is no feasible way to shift the burden of remediating these losses away from the federal government to private, foreign companies or to ascribe cultural losses, declines in language proficiency, or perceived disconnection from elements of nature to any particular private entity. Nor should each impacted tribe be required to spend the time or front the resources to obtain redress through private litigation—indeed, many may be unable to do so. Thoughtful, deliberate, comprehensive policy-making, not piecemeal CERCLA litigation against foreign private companies, is the proper vehicle to remedy these injuries.

**CONCLUSION**

For the foregoing reasons, this Court should grant the petition for certiorari.

Respectfully submitted,

Kelly L. Perigoe
*Counsel of Record*
KING & SPALDING LLP
633 West Fifth Street
Suite 1600
Los Angeles, CA 90071
(213) 443-4355
kperigoe@kslaw.com

Zoe M. Beiner
Megan Michur
KING & SPALDING LLP
1700 Pennsylvania Ave. NW
Suite 900
Washington, DC 20006

*Counsel for Amici Curiae*

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