



Alaska Attorney General Not Appealing Lands Into Trust Case

August 15, 2016 (Anchorage, AK) – Attorney General Jahna Lindemuth announced today that the State of Alaska will not be pursuing any further appeal in the case of *Akiachak Native Community v. U.S. Secretary of the Interior*. The D.C. Circuit Court of Appeals ruled that the case was mooted by federal regulation and vacated the district court’s decision. Instead of arguing over procedural issues, the State has decided to work with the federal government and interested stakeholders in resolving the State’s concerns on taking lands into trust in Alaska outside of litigation.

“While we were successful in having the lower court’s decision vacated, we lost on procedural grounds. Right now, it is as if that court case never happened. I don’t see any need to use our limited resources in pursuing dead-end litigation,” said Attorney General Lindemuth. “While litigation remains an option, it seems more productive to come back to the table and see if the State’s concerns can be addressed outside of litigation. In my experience, litigation is a blunt instrument—useful at times, but often a more tailored, nuanced solution that better addresses all concerns can be found outside the courtroom.”

Akiachak Native Community, along with three other tribal entities and one individual, filed a lawsuit in 2006 challenging the Department of Interior’s (DOI) regulation prohibiting the department from taking any lands in Alaska into trust for tribes. The district court agreed with the plaintiffs and struck down the regulation. Shortly after the State and the DOI appealed the case to the D.C. Circuit Court of Appeals, the DOI issued new regulations that repealed the prohibition and allowed tribes to begin filing applications with the federal government. The DOI then came back to the court of appeals and argued that the case was now moot in light of the new regulations. The court of appeals agreed and vacated the district court’s decision.

The DOI will be able to start considering applications to take lands into trust as of August 22, 2016. When the federal government takes land into trust, it holds it for the benefit of an individual Alaska Native or a Tribe. It is the federal government’s position that this land becomes Indian country. The exact scope of federal, state, and tribal powers on trust lands is an open issue that needs to be addressed in the regulatory process and through

dialogue with all the interested stakeholders. The State will have an opportunity to comment on any action before it occurs and federal rule-making may be appropriate. If the State's concerns cannot or are not addressed by the federal government, resolution of disputes in court remains an option.

"The State of Alaska has a unique history that sets it apart from other states," said Attorney General Lindemuth. "That uniqueness will also impact how trust lands play out in our state, and our next step will be evaluating what that should look like."

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