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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

KUSKOKWIM RIVER INTER-TRIBAL
FISH COMMISSION, *et al.*,

Intervenor Plaintiffs,

v.

STATE OF ALASKA, *et al.*,

Defendants.

Case No. 1:22-CV-00054-SLG

**MOTION FOR AND MEMORANDUM IN SUPPORT OF INTERVENOR-
PLAINTIFF ALASKA FEDERATION OF NATIVES’
FINAL APPLICATION FOR ATTORNEYS’ FEES**

Intervenor-Plaintiff-Appellee Alaska Federation of Natives (“AFN”), by and through counsel, hereby files its final fee application, (1) renewing the two prior

applications for attorneys’ fees before this Court and the Ninth Circuit Court of Appeals;¹ (2) supplementing those requests for fees that have not yet been requested; and (3) requesting a fee award for fees incurred before the United States Supreme Court, under the stipulation with the State of Alaska.² After the State’s full frontal attack on the rural subsistence priority to fish—granted by Congress in Title VIII of the Alaska National Interest Lands Conservation Act (“ANILCA”) and previously confirmed by the *Katie John* trilogy of cases—the Ninth Circuit’s decision rejecting the State’s challenge to undermine that priority became final with the U.S. Supreme Court’s denial of certiorari. As this Court has already determined, AFN, as a prevailing party on the State of Alaska’s challenge to subsistence rights under Title VIII, is entitled to reasonable attorneys’ fees pursuant to 16 U.S.C. § 3117(a), Section 807 of ANILCA.³ AFN’s final fee application is supported by the accompanying Declaration of Jahna M. Lindemuth (“Lindemuth Decl.”).

As this Court previously held, ANILCA Section 807 provides the “sole Federal judicial remedy” to enforce the subsistence priority in Title VIII of ANILCA.⁴ By statute, prevailing parties successfully enforcing the Title VIII subsistence priority are entitled to a full award of reasonable fees: “Local residents and other persons and organizations who

¹ See Docket 133; Docket 162-4. AFN’s motion for attorney’s fees before the Ninth Circuit was transferred to this Court for initial consideration. See Docket 162-5.

² See Docket 162.

³ See Docket 154 at 9-10 (“Clearly, Congress intended to provide a comprehensive remedy in § 3117 for all claims by persons and organizations against the State or Federal governments arising under Title VIII of ANILCA”).

⁴ § 3117(c); Docket 154 at 4.

are prevailing parties in an action filed pursuant to this section *shall be* awarded their costs and attorney’s fees.”⁵ The State previously challenged this entitlement and lost.⁶ This Court’s Order at Docket 154 is law of the case.⁷ Now that the Ninth Circuit affirmed this Court’s decision and the United States Supreme Court did not grant the State’s petition for certiorari,⁸ there is no question that AFN is a prevailing party. The only issue remaining is the amount of fees to be awarded under Section 807.

Fees Incurred in the District Court and Ninth Circuit.

AFN hereby renews and incorporates its prior motions for attorneys’ fees incurred before this Court and the Ninth Circuit.⁹ As set forth in those filings, AFN is entitled to \$114,653 for legal work before this Court¹⁰ and \$192,534.50 for legal work in the Ninth Circuit.¹¹

⁵ § 3117(a) (emphasis added).

⁶ See Docket 151; Docket 154.

⁷ *Fallon v. Dudek*, 135 F.4th 831, 836 (9th Cir. 2025) (“The law of the case doctrine generally prohibits a court from considering an issue that has already been decided by that same court or a higher court in the same case.” (quoting *Stacy v. Colvin*, 825 F.3d 563, 567 (9th Cir. 2016))). This doctrine promotes efficiency, so the exceptions to it are “when the evidence on remand is substantially different, when the controlling law has changed, or when applying the doctrine would be unjust.” *Stacy*, 825 F.3d at 567 (citing *Merritt v. Mackey*, 932 F.2d 1317, 1320 (9th Cir. 1991)). None of these exceptions apply here.

⁸ Docket 160 at 39-40; Docket 165.

⁹ See Docket 133, 162-4. AFN’s motion for attorney’s fees before the Ninth Circuit was transferred to this Court for initial consideration. See Docket 162-5.

¹⁰ Docket 133 at 7.

¹¹ Docket. 162-4 at 8.

In addition, AFN now supplements these prior requests for attorneys' fees. As set forth in the Lindemuth Decl., filed herewith, AFN also is entitled to reasonable attorneys' fees in the amounts of \$29,746 for additional work in this Court in preparing briefing for the original fee application, opposing the State's motion for stay of that application, and preparing this fee application, as well as \$4,287.50 for work before the Ninth Circuit in preparing the fee application and motion to transfer the fee application for that court.¹² The total amount of fees sought for work before this Court is \$144,399 and for work before the Ninth Circuit is \$196,822.¹³

Fees Incurred before the U.S. Supreme Court.

AFN is also entitled to reasonable attorneys' fees of \$153,202.17 incurred for legal work before the U.S. Supreme Court, including work as a key drafter of the Intervenor-Plaintiffs-Respondent's joint brief opposing the Defendants-Petitioners' Petition for Writ of Certiorari.¹⁴ As set forth in the Lindemuth Decl., AFN retained Supreme Court specialists from Jenner & Block LLP for their expertise before that court, in addition to CGL attorneys who litigated the case before the District Court and Ninth Circuit, to oppose the State's Petition for Certiorari.¹⁵ AFN originally drafted its own brief, separate from the other Intervenor-Plaintiff's joint brief, to make different points.¹⁶ AFN later worked to

¹² Lindemuth Decl., ¶ 3-4; Lindemuth Decl. Exh. A-B.

¹³ Lindemuth Decl. ¶ 3-4.

¹⁴ Lindemuth Decl. ¶ 14-15; *see* Lindemuth Decl., Exh. C-E.

¹⁵ Lindemuth Decl. ¶ 3-5, 11.

¹⁶ Lindemuth Decl. ¶ 15.

merge its brief with the joint Intervenor-Plaintiff brief and incorporate AFN's distinct arguments.¹⁷ The fees requested reflect these efforts spent to successfully defeat the State's petition for certiorari.¹⁸ As described more fully in the Lindemuth Decl., the rates charged and the fees incurred were more than reasonable.

CONCLUSION

The rates and number of hours expended in this case were very reasonable,¹⁹ especially given the importance of maintaining the rural subsistence priority to fish for AFN and the many subsistence users whom AFN represents.

The total fees requested by AFN are as follows:

District Court	\$144,399.00
Ninth Circuit	\$196,822.00
U.S. Supreme Court	\$153,202.17
TOTAL	\$494,423.17

For the reasons stated above, AFN is entitled to a fee award of \$494,423.17 under ANILCA Section 807.

¹⁷ Lindemuth Decl. ¶ 15.

¹⁸ See Lindemuth Decl. Exh. C-D.

¹⁹ See Lindemuth Decl. ¶ 6-10, 12-13, 15.

CASHION GILMORE & LINDEMUTH
Attorneys for Intervenor-Plaintiff
Alaska Federation of Natives

DATE: February 16, 2026

/s/ Jahna M. Lindemuth

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CERTIFICATE OF SERVICE

I certify that on February 16, 2026, a copy
of the foregoing document was served via ECF
on all counsel of record.

/s/ Jahna M. Lindemuth