

# Native American Rights Fund

## Indigenous Peoples' Rights

<https://www.narf.org/cases/akiachak-v-doi/>

## Campaign and Advocacy

Alaska tribes successfully sought judicial review of 25 C.F.R. Part 151, which barred the acquisition of land in trust on behalf Alaska tribes, with few exceptions.

Status: Archived

In 2006, the Akiachak Native Community, the Chilkoot Indian Association, the Chalkyitsik Village Council, and the Tuluksak Native Community IRA, represented by NARF, brought suit in federal district court for the District of Columbia seeking judicial review of 25 C.F.R. Part 151 as it pertains to federally recognized tribes in Alaska. This federal regulation governs the procedures used by Indian tribes and individuals requesting the Secretary of the Interior to acquire title to land in trust on their behalf. At the time, the regulation barred the acquisition of land in trust in Alaska other than for the Metlakatla Indian Community or its members.

In March 2013, the court granted plaintiffs complete relief on all of their claims a major victory for Alaska tribes. The State of Alaska and the Interior Department (DOI) filed appeals to the U.S. Court of Appeals for the D.C. Circuit. However, while the appeal was pending, DOI changed course and announced it would voluntarily amend the trust land regulations to include Alaska tribes. In May 2014, DOI published a new proposed rule addressing the acquisition of land into trust in Alaska. Specifically, the proposed rule deleted the provision that excluded trust acquisitions in Alaska. In December 2014, DOI published its final rule rescinding the Alaska Exception, which became effective on January 22, 2015. 79 Fed. Reg. 76888.

On the states appeal, the D.C. Circuit ruled 2-1 in favor of the tribal appellees. The majority opinion described the case as classically moot for lack of a live controversy and held that [b]ecause that regulation no longer exists, we can do nothing to affect Akiachaks rights relative to it . . . . Because the majority found there was no live controversy to be decided, it dismissed Alaskas appeal and ordered the district court to 3 vacate the original judgment. The dissenting Judge said she would have ruled in favor of hearing the States case on the merits.

Pursuant to the Court of Appeals decision, DOI completed one trust land acquisition in Alaska in January 2017 with nearly a dozen more pending. However, on July 2, 2018, the Trump Administration officially withdrew the solicitors opinion supporting land-into-trust for Alaska tribes and announced the Department would undertake a wholesale review of whether to reinstate the Alaska Exception into the Part 151 regulations. NARF immediately responded by organizing its tribal clients throughout the state. On January 19, 2021, the Department decided that lands cannot be taken in trust for Alaska tribes.

The Biden Administration withdrew the January 19 decision on April 17, 2021. The Department will again be accepting trust applications from Alaska tribes.

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