

IN THE
Supreme Court of the United States

MICHAEL WATSON,
MISSISSIPPI SECRETARY OF STATE,

Petitioner,

v.

REPUBLICAN NATIONAL COMMITTEE, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

**BRIEF OF *AMICI CURIAE* NATIONAL
CONGRESS OF AMERICAN INDIANS, ALASKA
FEDERATION OF NATIVES, AND WASHINGTON
CONSERVATION ACTION EDUCATION FUND
IN SUPPORT OF PETITIONER**

JACQUELINE D. DE LEÓN

Counsel of Record

ALLISON A. NESWOOD

NATIVE AMERICAN RIGHTS FUND

250 Arapahoe Avenue

Boulder, CO 80302

(303) 447-8760

jdeleon@narf.org

WESLEY JAMES FURLONG

KIRSTEN D. GERBATSCH

NATIVE AMERICAN RIGHTS FUND

745 W. 4th Avenue, Suite 502

Anchorage, AK 99501

SAMANTHA D. BLENCKE

MORGAN E. SAUNDERS

NATIVE AMERICAN RIGHTS FUND

950 F Street NW, Suite 1050

Washington, DC 20004

TOREY K. DOLAN

UNIVERSITY OF WISCONSIN LAW

SCHOOL

GREAT LAKES INDIGENOUS LAW

CENTER

975 Bascom Mall

Madison, WI 53706

Counsel for Amici Curiae

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INTERESTS OF *AMICI CURIAE*¹

Amicus curiae National Congress of American Indians (“NCAI”) is the Nation’s oldest and largest organization of American Indian and Alaska Native Tribal governments and their citizens. Since 1944, NCAI has served to educate the public and Tribal, federal, and state governments about Tribal self-government, treaty rights, and policy issues affecting Tribal Nations and their citizens, including voting rights. NCAI is a member of the Native American Voting Rights Coalition that produced a 2020 report based on nine field hearings and over 125 witnesses who documented widespread, present-day discrimination, and impediments to registration and voting faced by Native Americans. *See* James Thomas Tucker, Jacqueline De León & Dan McCool, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters* (2020), https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf [hereinafter *Obstacles*]. NCAI has a substantial interest in ensuring that Native Americans and Alaska Natives are not further disenfranchised by the rejection of lawfully cast ballots received after Election Day.

Amicus curiae Alaska Federation of Natives (“AFN”) is the largest statewide Native organization in Alaska, representing over 160,000 Alaska Natives, 192 federally recognized Tribal Nations, 152 Alaska Native Claims

1. Pursuant to Supreme Court Rule 37.6, *Amici* certify that their counsel authored this brief, no counsel for a party authored this brief in whole or in part, and no person, counsel, or party—other than *Amici*, their members, or their counsel—made a monetary contribution intended to fund the preparation or submission of this brief.

Settlement Act (“ANCSA”) village corporations, eleven ANCSA regional corporations, and eleven regional nonprofit and Tribal consortiums. AFN’s mission is to enhance and promote the cultural, economic, and political voice of Alaska Natives, and its membership includes numerous Tribal Nations and Villages where Alaska Native voters are routinely denied the ability to exercise their right to vote due to discriminatory practices, delays in mail service, and inadequate infrastructure and election administration. In 2023, AFN passed a resolution raising concerns about the disenfranchisement of Alaska Natives due to the lack of postal services. *See* Alaska Fed’n of Natives, *Resolution 23-29: A Resolution Urging Assessment and Action to Address Lack of United States Postal Services Available to Alaska Native People and Communities* (Oct. 21, 2023), <https://nativefederation.org/wp-content/uploads/2023/10/2023-AFN-Convention-Resolution.pdf>. AFN has a substantial interest in ensuring that Alaska Native voters are not denied a voice in our democracy.

Amicus curiae Washington Conservation Action Education Fund (“WCAEF”) is a nonprofit organization dedicated in significant part to advancing democratic participation throughout Washington State. WCAEF is the permanent home of Native Vote Washington Education Fund (“NVWEF”), which aims to foster full participation of Native communities in the democratic process by promoting civic engagement, advancing equitable representation, and cultivating Native leadership grounded in community values and Tribal sovereignty. NVWEF works statewide with Native voters, Native communities, and Native-led organizations to reduce barriers to participation through nonpartisan voter

engagement, education, and leadership development. NVWEF has a substantial interest in ensuring the ability of Native voters voting by mail in Washington to participate fully and equally in the democratic process.

SUMMARY OF ARGUMENT

In 2020, Mississippi enacted bipartisan legislation which allows the counting of absentee ballots mailed by Election Day and received within five business days. *See* Miss. Code Ann. § 23-15-637(1)(a). Petitioner correctly shows that Respondents' reading of federal law, which would disallow the Mississippi policy, contradicts statutory text and history and would upend state election administration nationwide. *Amici* write to detail an egregious consequence of disallowing the counting of ballots received after Election Day: the disenfranchisement of Native American and Alaska Native voters.

Native people are often forced to vote by mail. Many Native voters are limited to all-mail elections by state or local policy, and, where in-person voting is technically allowed, Native voters regularly receive unequal and inadequate opportunities to vote in-person. As a result of these barriers, voting by mail is often the only option for many Native voters.

Yet, voting by mail comes with its own challenges. Reliable mail service is often difficult to access in Native communities due to the lack of residential mail delivery, long distances to and reduced hours at post offices, delays in mail service to and from remote areas, poor infrastructure, and inclement weather. Given the logistical burdens and delays, ballots from Native communities are

more likely than ballots from non-Native communities to arrive after Election Day. States have navigated these obstacles with varying success. In some states, like Alaska and Washington, extending the receipt deadline for mail-in ballots postmarked by Election Day is a critical mechanism used to address the persistent infrastructure failures in Native communities.

Underserved Native communities deserve fair and equitable access to the ballot box. Instead of securing those rights, disallowing states to extend ballot receipt deadlines will lead to further disenfranchisement of Native people. This Court should reject contorting federal law to prohibit this necessary accommodation.

ARGUMENT

I. Native Voters are Often Forced to Vote by Mail

Native voters live in some of the most remote and neglected areas of the country. These are areas where in-person voting is often unavailable or inaccessible. As a result, voting by mail is often the only option for Native voters to cast their ballot. Consequently, changes to ballot receipt deadlines will have a significant impact on Native people.

A. In-person Voting is Often not Provided in the Communities Where Native Voters Live

In-person voting is largely unavailable in some states and local subdivisions that rely heavily on vote by mail. For example, in Washington State, which is home to twenty-nine federally recognized Tribal Nations, all elections are

held by mail with in-person voting limited to voter centers that provide accessible voting machines. *See Federally Recognized Indian Tribes*, Wash. Dep’t of Revenue, <https://dor.wa.gov/education/industry-guides/indian-tax-guide/federally-recognized-indian-tribes> (accessed Jan. 6, 2026). Less than 15% of Native precincts contain a ballot drop box or voter center so Native voters must typically vote by mail. *See* Wash. Sec’y of State, *2024 General—Drop Box and Voting Centers* (Nov. 1, 2024), [https://web.archive.org/web/20241210072236/https://www.sos.wa.gov/sites/default/files/2024-07/Drop Boxes.pdf](https://web.archive.org/web/20241210072236/https://www.sos.wa.gov/sites/default/files/2024-07/Drop_Boxes.pdf).

Similarly, elections in small, rural communities, which are often disproportionately Native American, may have no in-person voting by design. County officials or even state law may dictate that communities of a certain size conduct elections by mail, ostensibly to save on the costs of in-person election administration. *See, e.g.*, Neb. Rev. Stat. §§ 32-950, 32-960 (counties of less than 10,000 inhabitants may apply to convert in-person elections to vote by mail). Alaska, which is home to 229 federally recognized Tribal Nations, 89 Fed. Reg. 99,899, 99,902–03 (Dec. 11, 2024), has repeatedly contemplated curtailing in-person voting by converting to a statewide all-mail voting system or to mail-only elections for communities of 750 people or less. *See* Alaska Advisory Comm. to U.S. Comm’n on Civ. Rights, *Alaska Native Voting Rights* 38 (June 2019), <https://www.usccr.gov/files/pubs/2019/09-19-AK-SAC-Voting-Report.pdf> [hereinafter Alaska Advisory Comm.]; Corinne Smith, *Election Reforms Are on the Agenda for Alaska Lawmakers This Year*, Alaska Beacon (Jan. 23, 2025), <https://alaskabeacon.com/2025/01/23/election-reforms-are-on-the-agenda-for-alaska-lawmakers-this-year/>.

In addition, elections in small, rural communities often functionally become mail-only elections when in-person voting sites are unexpectedly closed. In Native communities, when election administrators are delayed, call out sick, or are prevented from traveling due to weather, there is no one else designated to administer in-person elections. *See infra*, at 23–25. The result is that voters in these communities have no option but to vote by mail, if they have any option at all.

B. In-Person Voting is Often Functionally Inaccessible Even When Technically Provided for Native Communities

Even where Native communities are not limited to mail-only elections and where the “local” in-person option is operating as planned, in-person voting is often inaccessible for Native voters. Tribal Nations vary in size, geography, and culture; yet, there are striking similarities in the conditions that make it difficult to vote in-person. Geographic isolation, poverty, lack of reliable transportation, and substandard infrastructure to handle poor weather, combined with inadequate election administration often make in-person voting inaccessible.

This is because, too often, equitable voting services are not made available *within* Native communities, even when requested.² In-person options are often at county

2. *See, e.g., Blackfeet Nation v. Stapleton*, No. 4:20-cv-00095 (D. Mont. Oct. 14, 2020) (Dkt. No. 9-1) (agreeing to on-reservation in-person voting options closer than 120 miles roundtrip); *Sanchez v. Cegavske*, 214 F. Supp. 3d 961 (D. Nev. 2016) (mandating on reservation in-person voting options closer than sixteen, thirty-two, and thirty-four miles from various reservations); *Poor Bear*

seats which are located significant distances from Native communities. For example, Pondera County, Montana, proposed converting to an all-mail election during the COVID-19 pandemic but sought to maintain in-person voting at its county seat. This meant that some Native Americans on the Blackfeet Indian Reservation would have had to travel up to 120 miles roundtrip to access in-person voting. *Blackfeet Nation v. Stapleton*, No. 4:20-cv-00095 (D. Mont. Oct. 9, 2020) (Dkt. No. 1). The majority of the Blackfeet Indian Reservation has no residential mail delivery. *Id.* Many Indian reservations and Alaska Native Villages are in extremely rural and remote areas, consistently forty to 150 miles from the nearest off-reservation border town or neighboring community. *See Obstacles, supra*, at 34, 73, 91, 93. For example, Navajos living on Navajo Mountain in San Juan County, Utah, have to drive 175 miles each way to reach government services in Blanding, Utah.³ *Native American Voting Rights:*

v. Jackson Cty., No. 5:14-cv05059-KES, 2015 WL 1969760 (D.S.D. May 1, 2015) (mandating on reservation in-person voting options closer than twenty-seven miles); *see also Brooks v. Gant*, No. CIV. 12-5003-KES, 2013 WL 4017036 (D.S.D. Aug. 6, 2013) (remedying Native voters forced to travel between 53 minutes and 2 hours and 45 minutes to reach the nearest early voting site); *Wandering Medicine v. McCulloch*, 906 F. Supp. 2d 1083 (D. Mont. 2012), *order vac'd, appeal dismissed*, 544 F. App'x 699 (9th Cir. 2013) (settlement mandating on-reservation satellite polling access and late registration to three Tribal Nations after inequity of 189%, 267%, and 322% in the average travel distance to late registration and early voting sites than their White counterparts).

3. Since 2015, bipartisan legislation has repeatedly been introduced in Congress to address inequitable election administration on Native lands but has failed to advance. *See* Native American Voting Rights Act of 2015, S.1912, 114th Cong.; Native American Voting Rights Act of 2018, S.3543, H.R. 7127,

Exploring Barriers and Solutions: Hearing Before the Subcomm. on Elections of the Comm. on H. Admin., 116th Cong. 74 (Feb. 11, 2020), <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41319/pdf/CHRG-116hhrg41319.pdf> (prepared statement of Jacqueline De León) [hereinafter De León, *Testimony*]. In Alaska, these distances can be even further. *See infra*, at 22. Such travel times are costly and often difficult or even impossible for Native voters to overcome. *See* De León, *Testimony*, *supra*, at 76–81.

Compounding the travel distances to government offices, Native voters often live in places where weather makes travel impossible, especially considering the unpaved roads that are commonplace in Native communities. U.S. Election Assistance Comm’n, *Voting Access for Native Americans: Case Studies & Best Practices* (Nov. 10, 2021), https://www.eac.gov/sites/default/files/2021-11/Voting_Access_for_Native_Americans-Case_Studies_%26_Best_Practices.pdf [hereinafter Election Assistance Comm’n]. In Alaska, temperatures regularly reach negative 50 degrees Fahrenheit; in North Dakota, icy roads are common; in Arizona temperatures can soar over 115 degrees; and in Washington summer heat can force rolling brownouts. These conditions make Tribal roads dangerous at best and impassable at worst. *Obstacles*, *supra*, at 2, 28–29, 31–32.

Native American and Alaska Native voters also disproportionately face economic hardship, with an estimated national poverty rate of 21.8%, *see Poverty*

115th Cong.; Native American Voting Rights Act of 2019, S.739, H.R.1694, 116th Cong.; Frank Harrison, Elizabeth Peratrovic, and Miguel Trujillo Native American Voting Rights Act of 2021, S.2702, H.R. 5008, 117th Cong.

Status in the Past 12 Months, U.S. Census Bureau, <https://data.census.gov/table/ACSST5Y2023.S1701> (accessed Jan. 6, 2026), with rates in some states over 30% or 40%, see *Native American Poverty Rate by State 2025*, Word Population Rev., <https://worldpopulationreview.com/state-rankings/native-american-poverty-rate-by-state> (accessed Jan. 6, 2025), making the costs of in-person voting prohibitively expensive. Travel from rural Alaska Native Villages to hub communities is expensive and time consuming, often requiring flights on small aircraft. Native voters in the Lower 48 states often lack access to a roadworthy vehicle that can navigate icy or muddy roads. De León, *Testimony*, *supra*, at 77.

For Native Americans and Alaska Natives, voting in-person may simply be too expensive or physically impossible. Thus, mail voting becomes the only option.

II. Native Voters Need More Time to Vote Due to Unreliable Mail Service

While mail voting is often the only viable option for Native voters, it requires more time than it typically does for non-Native voters. This is because Native communities often lack access to reliable mail service. See Election Assistance Comm’n, *supra*, at 6 (concluding that “[b]ecause mail service delivery can be unreliable, in-person voting is often a more viable option for many Tribal voters,” even while acknowledging that “polling locations are often located hundreds of miles away in tribal areas”).

A. Lack of Residential or Neighborhood Mail Delivery

One reason mail is less reliable for Native voters is that homes in many Native communities do not have residential mail delivery. *Obstacles, supra*, at 40, 78, 113; Chelsea N. Jones & Coryn Grange, *Voting on Tribal Lands Report*, Brennan Ctr. for Justice (Nov. 19, 2024), <https://www.brennancenter.org/our-work/research-reports/voting-tribal-lands>. The United States Census Bureau tracks which communities do not have residential mail delivery, designating them “update leave” status because they are areas where census takers go door-to-door to confirm addresses, update maps, and leave a census questionnaire package for households to self-respond rather than the regular process of collecting census responses through the mail. Across the country, only a tiny portion of residential areas are designated “update leave.” *2020 Census: Type of Enumeration Area (TEA) Viewer*, U.S. Census Bureau, <https://mtgis-portal.geo.census.gov/arcgis/apps/webappviewer/index.html?id=66cb1f187d4e45fd984a1a96fcee505e> (accessed Jan. 6, 2026) (showing that only 4.2% of areas in the United States are designated as “update leave”). Those areas are disproportionately Native. In fact, as the Native composition of a community increases, the proportion of the area that is “update leave” increases by the same percentage, strongly suggesting that the experience of unreliable mail service is largely unique to Native communities. See Megan A. Gall, Kevin R. Stout & Allison Neswood, *Disconnected Democracy: The Impact of Mail Service on Native American Voter Registration and Mail Balloting* (n.d.), <https://narf.org/wordpress/wp-content/uploads/2024/08/disconnected-democracy.pdf>.

The disparity of mail delivery in Native communities reflects the historical underserving of those communities. The United States Postal Service (“USPS”) and its infrastructure were largely built before Native Americans and Alaska Natives were conferred citizenship. Rural free delivery—the process by which mail is delivered to a person’s home mailbox or cluster mailbox in their neighborhood—was first introduced in 1896 and made permanent in 1902, approximately twenty-two years before the Indian Citizenship Act. U.S. Postal Serv., *The United States Postal Service: An American History* 30-31 (2025), <https://about.usps.com/publications/pub100.pdf>. [hereinafter U.S. Postal Serv., *An American History*]. Approximately 89% of current post offices were established prior to 1920, also before passage of the Indian Citizenship Act. Torey Dolan, *Where’s Mr. Postman? The Struggles of Voting by Mail in Indian Country*, 59 Harv. C.R.-C.L. L. Rev. 123, 128 (2024). The USPS was built to serve the American people before Native Americans and Alaska Natives were considered part of the citizenry.

This lack of service persists, as providing mail services to Native people is deprioritized. When White populations integrate into a Native community, however, mail services increase. One study showed that rural Indian reservations that have large populations of non-Natives have better access to USPS infrastructure, including residential mail delivery. See Ryan Weichelt, *Measuring Postal Access and Direct Delivery Services Among Native American Reservations in Montana and South Dakota*, 20 J. of Maps 2368002 (2024), <https://www.tandfonline.com/doi/epdf/10.1080/17445647.2024.2368002?needAccess=true>.

B. Distances to and the Scarcity of Post Offices

Another reason mail is unreliable for Native voters is the inaccessibility of post offices. Lack of residential mail delivery means that to receive their mail ballot, Native voters must travel to the nearest post office. Election Assistance Comm’n, *supra*, at 3. Many of America’s most geographically isolated post offices serve Native communities—from the post office on the Havasupai Reservation in the base of the Grand Canyon, which still has mail delivered by mules, to the hundreds of Alaskan Native Villages that rely on mail delivery by small airplane or boat. U.S. Postal Serv., *An American History*, *supra*, at 25. Outside these extreme cases, post offices are consistently significant distances from Native communities, sometimes 100 miles away. *Obstacles*, *supra*, at 40.

Moreover, the availability of those post offices is diminishing. Today, there are only approximately 439 operational post offices within the 1,142 census-designated American Indian and Alaskan Native areas. Compare Cameron Blevins & Richard W. Helbock, *US Post Offices*, <https://cblevins.github.io/us-post-offices/> (accessed Jan. 6, 2026) (USPS post office locations), with, ArcGIS REST Servs., *Tribal_Census_Tracts_v1* (ArcGIS Feature Service), U.S. Census Bureau TIGERweb, https://services2.arcgis.com/FiaPA4ga0iQKduv3/arcgis/rest/services/Tribal_Census_Tracts_v1/FeatureServer (accessed Dec. 17, 2025) (Tribal census tracks, excluding Oklahoma, state designated Tribal statistical areas, and Tribally designated statistical areas). And in the same Native designated locales, 681 post offices have been shuttered. Compare Blevins & Helbock, *supra*, with, ArcGIS REST Servs., *supra*. These closures can be

devastating and leave Native communities with limited to no options for mail service.

C. Limited Hours and Reduced Services at Rural Post Offices

Further compounding access issues, rural post offices typically have abbreviated hours, may be open less than five days a week, and may offer limited expedited delivery services. *See* H. Comm. on H. Admin, Ranking Member Morelle, *Report on Voting for Native Peoples: Barriers and Policy Solutions*, 118th Cong. (2024), https://democrats-cha.house.gov/sites/evo-subsites/democrats-cha.house.gov/files/evo-media-document/Dec_2_2024_Voting%20for%20Native%20Peoples_V3%5B14%5D.pdf. One study found that the limited hours of availability on the Navajo Nation reservation could not be explained by demand or population; instead, “the disparities clearly are not a function of rurality . . . but instead appear to be the result of discriminatory patterns that date back to early settlement.” Jean Schroedel, Melissa Rogers & Joseph Dietrich, *Structural Racism, the USPS, and Voting by Mail On- and Off- Reservation in Arizona*, 37 Stud. Am. Pol. Dev. 111, 123 (2023).

According to the 2021 Navajo Nation legislature, the current postal infrastructure on the Navajo Nation is “not enough” to “serve entire communities” and therefore negatively impacts the ability of Navajo people to vote. Navajo Nation Council, *Navajo Nation Expresses Disappointment with the United States Postal Service and the Violation of Voting Rights* (Dec. 2, 2021), https://www.navajonationcouncil.org/wp-content/uploads/2021/12/KABJR_USPS_2021.12.02.pdf.

Thus, to access a mail ballot, Native voters must first make the onerous trip to the post office to access their post office box during the limited window the post office is open and then make the journey back to return their ballot where they are provided limited options for delivery. That is, if a post office is available at all.

D. Longer Mail Transit Times

Finally, mail is unreliable for Native voters because it takes longer to get to and from their communities. Mail coming from rural post offices in Native communities—reservation towns and Alaska Native Villages in particular—can take circuitous routes, traveling first to a city then routed back out for delivery which leads to longer delivery times. For example, a ballot mailed from a voter on the Navajo Nation in Window Rock, Arizona, is routed to Gallup, New Mexico, then Albuquerque, New Mexico, then to Phoenix, Arizona, then to Show Low, Arizona, and then—finally—to the county seat in St. Johns, Arizona. *Voting Matters in Native Communities: Hearing Before the S. Comm. Indian Affs.*, 117th Cong. 51 (Oct. 27, 2021), https://www.indian.senate.gov/wp-content/uploads/PFB_SCIA%20Voting%20Testimony%2010.27.21.pdf (prepared statement of Patty Ferguson-Bohnee) [hereinafter Ferguson-Bohnee, *Testimony*]. This is, in total, an 807-mile trip, all while St. Johns is 98 miles south of Window Rock.

One study tracking mail from reservation communities in Arizona found that off-reservation letters followed generally direct routes and reached their destinations within the USPS standard of one to three days for First-Class mail. However, mail originating from reservation

communities took a much longer time to reach their destination, in some cases six to ten days. Schroedel et al., *supra*, at 123. Critically, it is often impossible to estimate exactly how long a piece of mail will take to be delivered from a rural post office. *Id.* This unpredictability can hurt even the most diligent voters. When accounting for the time it takes the ballot to get to Native voters and then back to the county seat, there may be only a “seven-day window [for Native voters] to receive the ballot, mark it, and return it to a post office in order for the ballot to arrive on time” whereas non-Native voters generally have twenty-seven days. Ferguson-Bohnee, *Testimony*, *supra*, at 8.

Moreover, social scientists have found that these delays are not only attributable to rurality. Rather, “off-reservation rural areas had far better access to the mail services necessary for voting (e.g., far more Post Offices and nearly round-the-clock access to PO Boxes), even in the lowest population communities” and that “letters posted from those off-reservation communities had delivery times that nearly matched the delivery times for urban locations. In contrast, the letters posted from on-reservation locations had much longer delivery times—generally outside of the one- to three-day USPS standard—and some did not arrive.” Schroedel et al., *supra*, at 124.

It is therefore no surprise that in Arizona, which has a strict deadline for receipt of all ballots by 7:00 PM on Election Day, that mail-in ballots coming from Native voters are rejected for late arrival at a rate seven times higher than mail-in ballots cast by White voters. *Id.* at 120 n.112. This example demonstrates that when states

do not extend their ballot receipt deadlines past Election Day, Native voters are disenfranchised. Not allowing states to be responsive to the needs of its underserved voters will only further the disenfranchisement of Native communities. In contrast, in Washington where Native voters face similar infrastructure challenges, mail-in ballots arrive after Election Day from on-reservation communities at a rate 60% higher than mail-ballots cast in off-reservation communities, but these votes can be counted. *See infra*, at 18.

Inclement weather can also impact mail delivery times. In Alaska, weather-caused delays in mail service have impacted the delivery and return of ballots to and from rural Alaska Native Villages. *See infra*, at 20, 28–32. As a result, mail-ballots arrive after Election Day from predominantly rural and Alaska Native regions of Alaska at a rate two to three times higher than mail-ballots from predominantly urban and non-Native regions. *See infra*, at 30. While Alaska’s extreme weather and isolated rural communities are unique, the impact of weather on rural mail delivery to Native communities is a fact of life throughout Indian Country.

As a result of the barriers to reliable mail service discussed in this section, a longer window to return mail ballots is often essential to ensuring that Native votes are counted.

III. Washington State Allows Ballots to Arrive After Election Day to Accommodate the Barriers Native Voters Face in Voting by Mail

Washington has a Native population of over 121,000. *Washington Race and Ethnicity*, U.S.

Census Bureau, <https://data.census.gov/profile/Washington?g=040XX00US53#race-and-ethnicity> (accessed Jan. 5, 2026). Most of the twenty-nine Tribal Nations in Washington are located in the rural parts of the state.

Washington is an all-mail voting state meaning that every registered voter receives a mail ballot for each election and that in-person voting is limited to vote centers that provide accessible voting machines for people who need them. Mail ballots in Washington may be submitted via drop boxes, which are administered by county auditors. Drop boxes, however, are not easily accessible throughout the state. In rural areas, the nearest drop box may be fifty miles away. For example, Native voters in Yakima County consistently live twenty-five to fifty miles from a drop box. *Ballot Return and Accessible Voting Locations: Official Ballot Drop Boxes*, Yakima Cnty., <https://www.yakimacounty.us/1136/Where-to-return-your-ballot-and-accessib> (accessed Jan. 6, 2026). For the 2024 General Election, of the 257 on-reservation precincts in Washington, only eighteen had a drop box or vote center, thereby limiting opportunities to vote on or before Election Day using those methods. *See Wash. Sec’y of State, 2024 General, supra*.

Washington passed a state Native American Voting Rights Act (“NAVRA”) that seeks to address some of the infrastructure challenges facing rural Native voters. For example, it allows Tribal Nations to request one ballot drop box per reservation and use Tribal office buildings as residential address for unaddressed homes. *See* S. 5079, 66th Leg. (Wash. 2019) (codified at Wash. Rev. Code §§ 29A.08.112(4), 29A.40.170(4)). While NAVRA continues

to be implemented, many Washington voters—and, in particular, Native voters—rely on the USPS to return their ballots. USPS service in Washington faces similar challenges as those present throughout the country. For example, a post office servicing the Yakama Nation is only open for four hours Monday through Friday, one hour on Saturday, and is closed on Sunday. *Parker*, U.S. Postal Serv., <https://tools.usps.com/locations/details/1376836> (accessed Jan. 6, 2026).

In order to be counted, ballots returned by mail must be postmarked on or before Election Day and received no later than the day before election certification—twenty-one days after a general election and fourteen days after a primary election. *Absentee/Mail Ballot Receipt Deadlines By State*, Nat’l Conference of State Legislatures (Dec. 24, 2025), <https://www.ncsl.org/elections-and-campaigns/table-11-receipt-and-postmark-deadlines-for-absentee-mail-ballots>. This system works because it relies on Washington permitting the receipt of mail ballots up to fourteen and twenty-one days after Election Day.

Native voters, in particular, benefit from this accommodation. During the 2024 General Election, of the mail ballots received from on-reservation precincts, 15% were received after Election Day. Wash. Sec’y of State, *2024 General Election—Ballot Return Statistics* (Dec. 12, 2024), <https://www.sos.wa.gov/elections/data-research/election-data-and-maps/election-results-and-voters-pamphlets/2024-general-election>. This is compared to off-reservation precincts, where only 9.4% of ballots were received after Election Day. *Id.* Accordingly, ballots from on-reservation voters were 60% more likely to arrive after Election Day than from voters off-reservation. This aligns

with the consistent experience of mail delivery in Indian Country nationwide.

On-reservation mail service is spotty, slow, and less dependable than in more populated and non-Native areas. Native voters in Washington cannot rely on consistent, timely mail service as they are served by understaffed post offices that must send mail to more urban areas for processing before it is routed to county auditors. These issues are compounded by inclement weather, which is not uncommon in Washington in November during general elections or August during primaries. This is especially true when rural postal workers rely on their own vehicles to deliver and collect mail. *See* U.S. Postal Serv., *Join Our Team! Rural Carrier Associate 2* (2021), <https://www.govinfo.gov/content/pkg/GOVPUB-P-PURL-gpo172070/pdf/GOVPUB-P-PURL-gpo172070.pdf>.

Washington's vote by mail system works for Native voters because the ballot receipt deadline accounts for slow, less reliable rural mail service and Acts of God. Requiring Washington to reject ballots that arrive after Election Day would disenfranchise Native voters in the state and have an outsized impact on Washington's Native voters in comparison to their non-Native counterparts.

IV. Alaska Native Voters Face Unique Barriers to In-Person and Absentee Voting that the State Accommodates by Allowing Ballots to Arrive After Election Day

While Native voters nationwide experience a wide variety of barriers to political participation, nowhere have the obstacles to voting been more prevalent than

in Alaska. Alaska Natives comprise 21.9% of the state’s population and 16.5% of its citizen voting-age population, the largest of any state. *See Alaska: 2020 Census: Race and Ethnicity*, U.S. Census Bureau (Aug. 25, 2021), <https://www.census.gov/library/stories/state-by-state/alaska.html#race-ethnicity> [hereinafter *Alaska: 2020 Census*]; *Citizen Voting Age Population by Race and Ethnicity*, U.S. Census Bureau, <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html> (accessed Jan. 1, 2026) (select “CVAP 2019-2023 5-Year ACS Data—CSV Format”).

Alaska Native communities are extremely geographically isolated, with many only accessible by airplane or boat. *See* Alaska Advisory Comm., *supra*, at 14–15; *see also* James Thomas Tucker, Natalie A. Landreth & Erin Dougherty Lynch, “*Why Should I Go Vote Without Understanding What I Am Going to Vote For?*” *The Impact of First Generation Voting Barriers on Alaska Natives*, 22 Mich. J. Race & L. 327, 334 (2017) [hereinafter Tucker et al., *Why Should I Go Vote*]. The geographical remoteness of Alaska affects voting in every way, from the shortcomings of the state’s centralized election administration to the systematic delays in mail delivery, to the weather events that close polling locations or prevent election materials from being delivered to rural communities timely or at all. Iris Samuels, *Two Weeks After Election Day, Alaska Is Still Counting Ballots. This Isn’t New*, Anchorage Daily News (Nov. 19, 2024), <https://www.adn.com/politics/2024/11/19/two-weeks-after-election-day-alaska-is-still-counting-ballots-this-isnt-new/>.

Insufficient election administration infrastructure and unreliable or non-existent mail delivery undermine the

timely delivery of completed ballots to the State of Alaska Division of Elections (“the Division”) headquarters in Juneau. Whether a voter in rural Alaska votes an absentee mail-in ballot or votes in-person, voted ballots must still travel vast distances by boat or airplane to regional election offices and then to Juneau to be fully counted by the Division. To account for Alaska’s vast geographic area, its severely limited rural election administration infrastructure, and the delay in mail delivery, Alaska law allows absentee ballots to be counted if received by the close of business on the tenth day following the election, provided they are postmarked on or before Election Day. Alaska Stat. § 15.20.081(e). Even still, Alaska Native voters have been repeatedly disenfranchised because even ten days is not always sufficient time for ballots to arrive in Juneau. Prohibiting states from accepting and counting ballots received after Election Day will further disenfranchise rural Alaska Native voters.

A. Alaska’s Centralized State-Wide Election Administration Burdens Rural Alaska Native Voters’ Access to the Ballot, Forcing Reliance on Vote by Mail

In nearly all Alaska Native Villages, state officials conduct every aspect of elections, except for some municipal elections, remotely because “[a] large part of Alaska is not in any organized borough.” Tucker et al., *Why Should I Go Vote*, *supra*, at 335 (quotation makes, citation omitted). Instead, much of the state is subdivided “into census areas for the purposes of presenting statistical data.” *Id.* (quotation marks, emphasis, citation omitted). All state and federal elections are overseen and administered by one central state entity, the Division, headquartered

in Juneau, and by five regional supervisors located in Anchorage, Fairbanks, Juneau, Wasilla, and Nome. *See Division Contact Information*, Alaska Div. of Elections, <https://www.elections.alaska.gov/contact-information/> (accessed January 1, 2026). Three of the five regional election offices—Anchorage, Fairbanks, and Wasilla—are on the limited road system, while Nome and Juneau are only accessible by air or boat.

Region IV, with its office in Nome, includes the vast expanse of Northern, Western, and Southwest Alaska, as well as the Aleutian Chain. State of Alaska, *Official Election Pamphlet: November 5, 2024* (2024), https://www.elections.alaska.gov/election/2024/General/OEPbooks/2024-AK-OEP_Region4_web72dpi.pdf. Just over one-third of the Alaska Native population lives in Region IV.⁴ *Alaska: 2020 Census, supra*. Most Alaska Native Villages in Region IV are hundreds of air miles from Nome, and Nome itself is over 530 air miles from Anchorage and 1,100 air miles from Juneau. Only five Alaska Native Villages in Region IV are within 100 air miles of Nome, the closest being sixty miles away. For Alaska Native voters in Region IV, except for those living in Nome itself, there is no physical access to an election office—unless a voter has the time and financial resources to fly to it—and there are no permanent in-person polling locations or permanently-hired election officials.

4. About 56,000 people who identify as American Indian and Alaska Native Alone or in Combination live in Region IV, which is just over one-third of the Alaska Native population. Most of the communities in Region IV are comprised of over 50% Alaska Native. *Alaska: 2020 Census, supra*.

Consequently, in recent years, the Division has been unable to open in-person polling places on time—or at all—in Alaska’s rural and predominantly Alaska Native precincts, impacting hundreds of voters and necessitating reliance on absentee voting by mail. During the 2022 Primary Election, for example, the Division failed to open polling places in Tununak and Atmautluak, leaving 251 registered voters with no ability to vote. James Brooks, *Two Rural Alaska Communities Failed to Open Polling Places on Election Day*, Anchorage Daily News (Sept. 3, 2022), <https://www.adn.com/politics/2022/09/03/two-rural-alaska-communities-failed-to-open-polling-places-on-election-day/>. Two additional polling places in Holy Cross and Venetie did not have enough poll workers to operate traditional in-person voting but were able to offer absentee in-person voting.⁵ *Id.* Likewise, during the 2022 General Election, two other polling places in Teller and Nuiqsut could not open until late afternoon on Election Day because of staffing issues. Alena Naiden, *2 Rural Alaska Polling Places Didn’t Open Until Late Afternoon on Election Day*, Anchorage Daily News

5. In-person absentee voting occurs at in-person polling locations that lack access to the state-wide, online voter registration database to verify voters’ registration. There, voters cast an absentee ballot which is placed in its secure envelope and then deposited in the ballot box. Unlike regular in-person voting, in-person absentee ballots are not counted at the polling place. Instead, in-person absentee ballots are mailed to the Absentee Review Board at the appropriate Division regional office to review the voter’s eligibility, along with all other absentee ballots voted by mail. These ballots are then mailed to Division headquarters in Juneau for final review and approval before they are counted. *See Absentee and Early Voting*, Div. of Elections, <https://www.elections.alaska.gov/voter-information/absentee-and-early-voting/#In-Person> (last accessed Dec. 31, 2025).

(Nov. 10, 2022), <https://www.adn.com/alaska-news/rural-alaska/2022/11/10/two-rural-alaska-polling-places-didnt-open-until-late-afternoon-on-election-day/>. Emergency efforts salvaged only four hours of voting.

During the 2024 Primary Election, the Division again failed to open polling places in Wales and Kaktovik, and polling places in several other Villages opened late. Mark Thiessen, Becky Bohrer & Gene Johnson, *The Ability to Cast a Ballot Isn't Always Guaranteed in Alaska's Far-Flung Native Villages*, AP News (Oct. 28, 2024), <https://apnews.com/article/alaska-native-voting-disenfranchisement-6b160888c8f847c390db042cd9569063>. In Kaktovik, “[t]he state failed to provide an elections supervisor or poll workers.” *Id.* Accordingly, the polling station did not open and “[t]here was nowhere for the village’s 189 registered voters to cast a ballot.” *Id.* In Anaktuvuk Pass, the polling place opened only about thirty minutes before closing time; just seven of 258 registered voters were able to vote in-person. *Id.* Additionally, polling places in Marshall, Shaktoolik, and Diomedes opened roughly three hours late. Andrew Kitchenman, *2 Rural Alaska Precincts Fail to Open for Primary Voting After Workers Don't Respond to State*, Alaska Beacon (Aug. 20, 2024), <https://alaskabeacon.com/briefs/3-rural-alaska-precincts-fail-to-open-for-primary-voting-after-workers-dont-respond-to-state/>.

Harsh winter weather has also forced the closure of in-person voting locations, thereby necessitating absentee voting by mail. During the 2024 General Election, for example, polling places in St. George and Wales were closed due to high winds and snow from a winter storm. Chris Klint, *Alaska Voters Head to the Polls with Bad*

Weather Delaying Voting in 2 Rural Communities, KTOO (Nov. 5, 2024), <https://www.ktoo.org/2024/11/05/alaska-voters-head-to-the-polls-with-bad-weather-delaying-voting-in-2-remote-communities/> (“St. George is in the middle of a windstorm and will try to open at 2 p.m. today[.] . . . ‘We have a team to work at Wales, but they are waiting for the weather to allow travel.’”). Likewise, flooding in Kobuk forced the polling place to close early. Kitchenman, *supra*.

The Division’s inability to ensure in-person voting in rural Alaska Native Villages necessitates Alaska Natives’ reliance on absentee voting by mail. Nevertheless, as discussed *infra*, at 25–32, the lack of adequate mail delivery to rural Alaska poses additional significant challenges to Alaska Natives’ ability to vote and have their votes counted.

B. Mail Service Failures and Chronic USPS Staffing Shortages Uniquely and Disproportionately Affect Alaska Native Communities

The vast majority of Alaska Native Villages lack road connectivity. Therefore, more than any other state, Alaska relies heavily on coordination between the Division, USPS, Alaska Native Villages and Tribal Nations, and regional air carriers to conduct elections. *See, e.g.*, Matt Dworzanczky, *The Isolated Town of Aniak, Alaska, Relies on the Post Office for Food and Medicine, USPS Debt and the Pandemic are Leaving Its 549 Residents Vulnerable*, Business Insider (Oct. 30, 2020), <https://www.businessinsider.com/postal-service-pandemic-aniak-alaska-small-towns-2020-10>. Of the 401 precincts in

Alaska, 135 are “hand-count” precincts, meaning they rely entirely on the USPS for ballots to be officially received and counted. *Alaska’s Ballot Count Methods*, Div. of Elections, <https://www.elections.alaska.gov/doc/forms/h18.pdf> (accessed Jan. 6, 2026). The majority of these hand-count precincts are in rural areas. *Id.*

Staffing issues plague post offices throughout rural Alaska. As of 2023, there were seventy-five Postmaster Relief vacancies in rural precincts in Alaska. Joaqlin Estus, *Lack of Postal Workers, Low Turnout Affect Alaska Elections*, Indian County Today (June 4, 2024), <https://ictnews.org/news/lack-of-postal-workers-low-turnout-affect-alaska-elections/>. A Postmaster Relief position is a part-time position that serves as a temporary substitute for a Postmaster in smaller or remotely managed post offices when the main Postmaster is out, sick, or on leave. When a community lacks a Postmaster Relief, mail service becomes far more vulnerable to closures, delays, or restricted hours—directly heightening the risk of critical gaps in the elections process, from receiving ballots and voter information to returning completed ballots on time. Shehla Anjum, *Bringing Alaska Native Voters Back to the Polls*, First Alaskans Inst. Mag. (Winter 2023-2024), <https://magazine.firstalaskans.org/issue/winter-2023-2024/bringing-alaska-native-voters-back-to-the-polls/> (“The lack of PMRS means 75 post offices, representing 14,303 voters, are vulnerable to closures or operate on a limited schedule.”). Small post offices in Alaska Native communities have been known to close for weeks or even months when the Postmaster gets sick or quits. See Kimberly Cataudella, ‘A Perfect Storm of Confusion:’ Voting Faces Systemic Challenges in Alaska, Ctr. for Pub. Integrity (Oct. 6, 2022), <https://publicintegrity.org/politics/>

elections/who-counts/a-perfect-storm-of-confusion-voting-faces-systemic-challenges-in-alaska/; Lex Treinen, *White Mountain Struggling After Two Months Without Regular Postal Service*, Alaska News Source (Nov. 13, 2019), <https://www.alaskasnewssource.com/content/news/White-Mountain-struggling-after-two-months-without-regular-postal-service-564867542.html>; Casandra Mancl, *Wainwright Post Office Closed Indefinitely Due to Staffing Issues*, Alaska News Source (June 9, 2023), <https://www.alaskasnewssource.com/2023/06/10/wainwright-post-office-closed-indefinitely/>. Staffing issues also prevent rural post offices from operating normal business hours. Rural post offices are often only open a handful of days a week, for a few hours per day.

Post offices do not exist in approximately forty-four Alaska Native census-designated areas. *Compare* Blevins & Helbock, *supra*, with, ArcGIS REST Services, *supra*. Platinum, for example, a community of about fifty-five people, has “no [USPS] employee.” Michelle Sparck, *Get Out the Native Vote Election Observations of 2022 to the Senate State Affairs Committee* (Jan. 26, 2023), https://www.akleg.gov/basis/get_documents.asp?session=33&docid=107. The USPS advised residents that they could pick up their mail in Goodnews Bay, a dangerous and costly eleven-mile trip by boat, airplane, or snowmachine (in the winter) across the Bay. *Id.* Simply relocating mail services to a “nearby” post office does little to ensure residents actually receive their mail, and specifically ballots, in a timely fashion. *Id.*

While absentee ballots can arrive up to ten days after Election Day when mailed within the state, ballots must be postmarked on or before Election Day. The lack

of adequate postal infrastructure in rural Alaska makes meeting this postmark requirement challenging. Most mail in Alaska is automatically postmarked in Anchorage or Juneau. Thus, a ballot placed into the mail in a rural Alaska Native Village will likely not be postmarked for several days until after it reaches Anchorage or Juneau. James Brooks, *Act Quickly on Absentee Ballots, U.S. Postal Service Warns Voters*, Alaska Beacon (Oct. 28, 2024), <https://alaskabeacon.com/briefs/act-quickly-on-absentee-ballots-u-s-postal-service-warns-voters/>. This postmarking delay has an immediate impact on whether valid, timely-cast absentee ballots mailed from rural Alaska will be counted. Given this additional barrier, allowance of additional processing time after Election Day is especially important.

Though the USPS encourages voters to mail in their absentee ballots “early,” the reality is that dozens of Alaska Native voters are likely to receive their absentee ballots late due to delayed mail delivery and will therefore have less time to complete the ballot and return it. During the 2024 Primary Election, election materials mailed to twenty rural Alaska Native precincts failed to arrive in time to begin absentee in-person early voting until *after* voting had started. Steve Kirch, *State Elections Director: Early Voting Absentee Ballot Delays Impact 20 Rural Communities*, Alaska News Source (Aug. 14, 2024), <https://www.alaskasnewssource.com/2024/08/15/democrats-react-delays-absentee-ballots-rural-areas-start-early-voting/>.

And even when Alaska Native voters mail their ballots in on or before Election Day, the delayed postmarking that is only available in Anchorage or Juneau—and not in Nome

for Region IV, for example—means absentee ballots may not arrive in time to be counted by the Division. Alaska Advisory Comm., *supra*, at 39. The USPS advises that if a voter is mailing an absentee ballot on Election Day or just the day before, to go inside a local post office and ask to have it postmarked by hand. Yereth Rosen, *How to Vote in Alaska: Options Abound, But the Deadline is Almost Here*, Alaska Beacon (Nov. 4, 2024), <https://alaskabeacon.com/2024/11/04/how-to-vote-in-alaska-options-abound-but-the-deadline-is-almost-here/>. This recommendation ignores that dozens of Alaska Native communities lack a post office altogether.

C. Inadequate Mail Services in Rural Alaska Causes Alaska Natives’ Ballots to Arrive to the Division after Election Day, if at all, Often Resulting in Alaska Native Voters’ Disenfranchisement

Inadequate mail services in rural Alaska means that valid, timely-cast ballots cast by Alaska Natives predominantly arrive at Division headquarters to be counted after Election Day. Delays in rural mail service regularly cause ballots to arrive well after the statutory deadline—if they ever arrive at all—thereby disenfranchising Alaska Native voters due to no fault of their own. According to data provided by the Division for the 2022 and 2024 Primary and General Elections, absentee ballots mailed from rural, Alaska Native precincts in Region IV have a far higher rate of arriving after Election Day than absentee ballots mailed statewide or from any other election region.⁶

6. Data on the dates absentee ballots were received in the 2022 and 2024 Primary and General Elections were compiled from

Across all Primary and General Elections since 2022, the rate of ballots mailed statewide received by the Division that arrive after Election Day bounces between 15% and 30%. The rates in Regions I (Juneau), II (Anchorage), III (Fairbanks), and V (Wasilla) are roughly similar to the state average. In Region IV (Nome), which is characteristically rural, completely disconnected from the limited road system in Alaska, and predominantly Alaska Native, the rate of Region IV absentee ballots that arrive after Election Day is at minimum 40% and at most 70%. At the District level, during the 2022 General Election, in Region IV House District 39 (Bering Straits), 55% of all absentee ballots arrived after Election Day. In House Districts 37 (Bristol Bay) and 40 (Northwest Arctic), 62% and 65% of absentee ballots arrived after Election Day, respectively. In House District 38 (Yukon-Kuskokwim), 78% of all absentee ballots arrived after Election Day.

The 2022 General Election is not an outlier. Rather, it is indicative of consistent trends and highlights the realities of election administration and voting in remote, rural communities. During the 2024 Primary, between 51% and just over 83% of absentee ballots from Region IV Districts received by the Division arrived after Election Day. During the 2024 General Election, fewer absentee ballots overall arrived after Election Day. Nonetheless, between 18% and 51% of all absentee ballots arrived after Election Day. House District 37 (Bristol Bay) experienced more than double the statewide rate of absentee ballots received after Election Day. In other words, ballot receipt by Election Day would disproportionately disenfranchise

responses to public records requests submitted to the Division for each election. These data are on file with undersigned counsel.

Alaska Native voters. Thousands of Alaska Native voters' ballots, who had lawfully and timely cast a ballot, would not be counted.

Inadequate and inconsistent mail service not only delayed absentee vote by mail ballots. In at least two documented instances, mail delays prevented ballots that were cast and already received by local election officials at the polls from being delivered to Division headquarters in time to be fully counted prior to the election certification deadline. In 2022, the Division certified the results of the Primary, Special House, and General Elections without including votes from thirteen rural Alaska Native precincts because the USPS failed to deliver them to Juneau in time. *See* Iris Samuels, *Alaska's Election Results Are Certified With Some Ballots Left Uncounted*, Anchorage Daily News (Sept. 2, 2022), <https://www.adn.com/politics/2022/09/02/alaskas-election-results-are-certified-with-some-ballots-left-uncounted/>; James Brooks, *Some Rural Votes Were Again Left Uncounted in Alaska's Statewide Election*, Alaska Beacon (Dec. 6, 2022), <https://alaskabeacon.com/2022/12/06/some-rural-votes-were-again-left-uncounted-in-alaskas-statewide-election/> [hereinafter Brooks, *Uncounted Alaska Rural Votes*]. In each instance, the ballots were hand counted in their rural precincts where voters' first-choice rankings were recorded, but since the rural precincts lacked the equipment to scan and record voters' second- and third-choice rankings, the ballots had to be mailed to Juneau to be fully counted. In both cases, the USPS failed to deliver the timely-cast ballots within the certification window for their second- and third-choice rankings to be included in the final election results. *See* Samuels, *supra*;

Brooks, *Uncounted Alaska Rural Votes*, *supra*. As a result, in the 2022 Primary and Special House Election, 300 ballots from seven Alaska Native Villages were not fully counted. Samuels, *supra*. Another 259 ballots were not fully counted from six Alaska Native Villages in the 2022 General Election. Brooks, *Uncounted Alaska Rural Votes*, *supra*.

Alaska's centralized election administration and inadequate rural election infrastructure, combined with harsh, unpredictable weather and geographic isolation, force rural Alaska Natives to rely on absentee vote by mail. Yet, mail service in rural Alaska Native Villages is inconsistent and inadequate. Alaska attempts to account for these challenges by permitting valid and timely-cast absentee ballots to arrive after Election Day and still be counted. And yet, Alaska's ten-day allowance is often not enough time. Most absentee ballots received by the Division after Election Day are mailed from rural Alaska Native precincts. Prohibiting states from accepting ballots after Election Day would disproportionately disenfranchise rural Alaska Native voters and override an important aspect of Alaska's election administration aimed at overcoming the challenges posed by the vast geography of the state, the isolation of Alaska Native Villages, inclement weather, and unreliable mail services in rural communities.

CONCLUSION

Throughout the country, Native people continue to face inordinate barriers when trying to cast their ballots. A strategy some states use to help mitigate these challenges is extending the mail ballot receipt deadline to after

Election Day. As the stark examples from Washington and Alaska demonstrate, Native voters will be disenfranchised absent this accommodation. This Court should decline to upend election administration across the country. For the foregoing reasons, the opinion of the Fifth Circuit should be reversed.

Respectfully submitted,

JACQUELINE D. DE LEÓN

Counsel of Record

ALLISON A. NESWOOD

NATIVE AMERICAN RIGHTS FUND

250 Arapahoe Avenue

Boulder, CO 80302

(303) 447-8760

jdeleon@narf.org

WESLEY JAMES FURLONG

KIRSTEN D. GERBATSCH

NATIVE AMERICAN RIGHTS FUND

745 W. 4th Avenue, Suite 502

Anchorage, AK 99501

January 9, 2026

SAMANTHA D. BLENCKE

MORGAN E. SAUNDERS

NATIVE AMERICAN RIGHTS FUND

950 F Street NW, Suite 1050

Washington, DC 20004

TOREY K. DOLAN

UNIVERSITY OF WISCONSIN LAW

SCHOOL

GREAT LAKES INDIGENOUS LAW

CENTER

975 Bascom Mall

Madison, WI 53706

Counsel for Amici Curiae