

Patterson pushes proactive measures

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MOBILE, Ala. – As the [United South and Eastern Tribes](#) celebrates its 40th anniversary, the inter-tribal organization is posing some important questions about the federal government's trust responsibility and the government-to-government relationship between the U.S. and the country's indigenous nations.

"Every single issue Indian country faces centers around the federal government's trust responsibility," USET President Brian Patterson said following the nonprofit organization's mid-year conference in Mobile, Ala. in June.

"So as USET moves forward in continuing the vision of our four founding tribes – the vision of strength in unity – the first thing we're looking to determine is: What is the vision of implementing the federal government's trust responsibility to the tribes? It's a question I ask of Interior Department Secretary Ken Salazar and I think it's a question Indian country needs to advance on all levels.

"And the second part to that question is even more fundamental, and that is: Who determines what the trust responsibility is in developing the government-to-government relationship with the tribes?"

Clearly, a relationship involves two parties and Patterson believes the nations need to take a more proactive role in defining and shaping the federal government's trust responsibility and the government-to-government relationship.

"The tribes need to be proactive in defining what the trust relationship is and presenting that vision to the government and those dialogues need to take place at the highest levels within the administration. For tribes to wait for the federal government to move this conversation forward is ludicrous," Patterson said.

"We need to be more involved in federal policy-making that affects the tribes. How does the federal government involve itself in all major decisions affecting the tribes? How does it balance its trust obligation with the tribes with state interests and state rights? We've done a lot in the recent past to expand our role in assuring that our tribal voice is heard in Washington on federal Indian law matters, but we still have outstanding issues. I think that's the continuous fight and that's where it needs to be centered."

USET passed 24 resolutions at its mid-year conference and almost all of them relate directly to the federal government's trust responsibility, Patterson said.

At the top of the agenda is the urgent need for a legislative "Carcieri fix" to correct a ruling by the U.S. Supreme Court last year that the 1934 Indian Reorganization Act restricts the Interior Department secretary to take land into trust only for tribes "under

federal jurisdiction” in 1934.

“This is an issue that affects every tribe in Indian country, some directly, some indirectly. And all tribes need to be alarmed about how this decision has emboldened and empowered the states,” Patterson said.

He pointed to the Cape Wind project – a proposal to build an offshore industrial wind factory in Nantucket Sound, an area sacred to the Wampanoag tribes. The project was opposed by the tribes, environmental groups, local towns, airports and boating authorities, and also by USET in a formal letter to Interior Secretary Ken Salazar, but several states supported it and Salazar approved it.

“As we deal with concerns such as Cape Wind and Interior’s green lighting of that offshore wind project, which would disrupt an area of great sacred significance for several of our member tribes, we need to develop and have dialogue with those responsible for implementing the trust relationship in Indian country,” Patterson said.

USET passed a resolution seeking a reversal of Salazar’s approval of Cape Wind, and has also written in support of a speedy resolution of the Cobell settlement. All three issues – Carcieri, Cape Wind and Cobell – are “tied to the federal government’s failed trust responsibility,” he said.

The disastrous BP oil rig blowout in April gave rise to a USET resolution urging the U.S. Coast Guard – the lead agency for oil clean-up efforts – to “fully comply with their legal responsibilities to initiate consultation directly on a government-to-government basis with Indian tribes in all stages of the National Historic Preservation Act Section 106.”

The BP oil spill affects the whole cycle of creation, Patterson noted.

“USET tribes in the Mobile, Ala. area are in the shadow of the BP oil spill. It’s a tragic time for the communities, including our own Native American communities who live in the Gulf Coast area. The spill highlights the need for the federal government to play an appropriate regulatory role that ensures that businesses act responsibly without overburdening them. It’s a tough balance to achieve. Our prayers are with the Gulf Coast communities.”

Another resolution involved the appointment of representatives to the BIA/Tribal Budget Advisory Council, a forum where tribal representatives from each of the 12 BIA regions come together to discuss funding for the tribes and to assist in formulating the annual BIA budget.

In this area, too, Patterson is urging more proactive involvement.

“We’re at a disadvantage because we don’t have a relationship with the Office of Management and Budget so the process is flawed from the beginning and Indian

country is left again in a responsive mode instead of being in an advocacy position. We really need to elevate beyond the current process.”

Another resolution urges the Interior secretary to fulfill his trust responsibility by supporting secretarial procedures for tribes’ gaming efforts when states refuse to negotiate in good faith on Class III gaming compacts.

All of the resolutions are posted on USET’s Web site at www.usetinc.org under “Resources.”

Patterson said the mid-year conference was “very dynamic,” but more work needs to be done.

“I think we have a little window of opportunity to forward some of these issues that have brought hardships to Indian country and have prohibited Indian country from advancing, but tribes need to be engaged and we need to hold ourselves accountable to the process.”