



United South and Eastern Tribes, Inc.
711 Stewarts Ferry Pike • Suite 100 • Nashville, TN 37214
(P): 615-872-7900 • (F): 615-872-7417

USET Resolution No. 2010:021

SUPPORT OF LEGISLATION TO ADDRESS THE SUPREME COURT DECISION IN *CARCIERI V. SALAZAR*

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-five (25) federally recognized Tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and
- WHEREAS,** the Constitution of the United States (U.S.), through the Treaty, Commerce, and Apportionment Clauses and the 14th Amendment, recognizes the sovereign status of Indian Tribes as Native nations established prior to the United States; and
- WHEREAS,** the Indian Gaming Regulatory Act (IGRA) acknowledged and confirmed the inherent sovereign powers of Tribal Governments; and
- WHEREAS,** on February 24, the Supreme Court held in *Carcieri v. Salazar*, 129 S.Ct. 1058 (2009), that the Secretary of the Interior lacks authority to take land into trust under the Indian Reorganization Act (IRA), (25 U.S.C. secs. 465, 479) for Indian Tribes not under Federal jurisdiction at the time of its passage in 1934; and
- WHEREAS,** the *Carcieri* decision interferes with trust land acquisitions for Indian Tribes who, arguably, were not under Federal jurisdiction in 1934, and may give rise to Federal court challenges to the Indian trust lands of such Indian Tribes and threaten Indian lands; and
- WHEREAS,** the United States has wrongfully divested Indian Tribes of far too much of our aboriginal homelands; and
- WHEREAS,** to address some of the wrongful policies of the 19th and early 20th Centuries, including removal, allotment and forced assimilation of Indian Tribes, President Franklin D. Roosevelt announced the "New Deal" for Indian Tribes through the IRA, which was enacted to provide the Secretary of the Interior with authority to acquire lands into trust for Indian Tribes and Indians; and
- WHEREAS,** the *Carcieri* decision overturns nearly 75 years of settled Indian trust land law by limiting the Secretary's authority to acquire land in trust for Indian Tribes "now under Federal jurisdiction" in 1934 at the time of the IRA's passage; and
- WHEREAS,** S.1703 and H.R. 3742, a bill to amend the IRA to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian Tribes and Indians, is currently pending in the U.S. Senate and House of Representatives; and
- WHEREAS,** the U.S. has sovereign immunity from challenges to title land held by the U.S. except as provided in the Quiet Title Act and a plaintiff must "set forth with particularity the nature of the right, title, or interest which the plaintiff claims in the real property [held by the United States and] the circumstances under which it was acquired," (28 U.S.C. sec. 2409(d)); therefore, be it
- RESOLVED** the USET Board of Directors respectfully requests the President of the United States and Congress to act immediately to reverse the wrongly decided *Carcieri* case by enacting S. 1703 and H.R. 3742, a bill that

would amend the Indian Reorganization Act to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian Tribes and Indians.

CERTIFICATION

This resolution was duly passed at the USET Semi-Annual Meeting, at which a quorum was present, in Mobile, AL, on Thursday, June 17, 2010.

Brian Patterson, President
United South and Eastern Tribe, Inc.

Robert McGhee, Secretary
United South and Eastern Tribes, Inc.

“Because there is strength in Unity”