



# USET

SOVEREIGNTY PROTECTION FUND

**Nashville TN Office**  
711 Stewarts Ferry Pike, Ste. 100  
Nashville TN 37214  
P: (615) 872-7900  
F: (615) 872-7417

**Washington DC Office**  
400 North Capitol St., Ste. 585  
Washington DC 20001  
P: (202) 624-3550  
F: (202) 393-5218

## USET SPF Resolution No. 2017 SPF:001


### **URGING AN AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT TO RECOGNIZE TRIBAL CITIZENSHIP RATHER THAN BLOOD QUANTUM FOR THE PURPOSES OF THE JAY TREATY**

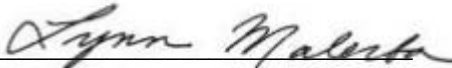
- WHEREAS,** United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of twenty-six (26) federally recognized Tribal Nations; and
- WHEREAS,** the actions taken by the USET SPF Board of Directors officially represent the intentions of each member Tribal Nation, as the Board of Directors comprises delegates from the member Tribal Nations' leadership; and
- WHEREAS,** the 1794 Treaty of Amity, Commerce, and Navigation (Jay Treaty) delineated the United States-Canadian border, splitting many Tribal communities living along this border in half; and
- WHEREAS,** to reconcile this division, Article III of the Jay Treaty preserved the right of Native Americans to pass freely across the border by land or water; and
- WHEREAS,** Pursuant to Article III of the Jay Treaty, Congress enacted the 1952 Immigration and Nationality Act (INA) (Pub.L. 114-38); and
- WHEREAS,** the INA reads: "Nothing in this subchapter shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race." (8 U.S.C. § 1359); and
- WHEREAS,** current law can require Tribal citizens to prove they have at least 50 percent Indian blood quantum to utilize their Jay Treaty right to cross the U.S.-Canadian border; and
- WHEREAS,** reference to blood quantum in 8 U.S.C. § 1359 stems from the termination era where lawmakers sought to eradicate Tribal Nations; and
- WHEREAS,** realizing the negative impacts of termination era-derived policies, Congress has since worked to restore the government-to-government relationship by promoting self-determination, self-governance, and subsequent rights, such as the right of Tribal Nations to determine their own requirements for citizenship; and
- WHEREAS,** currently enforced regulations ignore these efforts by continuing to use outdated and inconsistent language causing unnecessary tension along the border between Tribal citizens and border security agents; and

- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** the USET SPF Board of Directors recognizes the right of Tribal Nations to determine their own requirements for citizenship and that current language in 8 U.S.C. § 1359 is outdated and inconsistent with modern federal Indian law; and, be it further
- RESOLVED** the USET SPF Board of Directors finds that subjecting Tribal citizens to language stemming from the termination era is offensive and creates unnecessary tension at the border between Tribal citizens and border security agents; and, be it further
- RESOLVED** the USET SPF Board of Directors further finds that failing to recognize the right of Tribal Nations to determine their own citizenship when exercising treaty rights is a direct attack on Tribal sovereignty and the principles of the self-determination; and, be it finally
- RESOLVED** the USET SPF Board of Directors urges Congress to quickly pass a technical amendment to the Immigration and Nationality Act that recognizes Tribal citizenship identification cards, rather than proving one's blood quantum, for the purposes of utilizing Article III of the Jay Treaty.

### CERTIFICATION

This resolution was duly passed at the USET SPF Annual Meeting, at which a quorum was present, in Cherokee, NC, October 26, 2016.

  
\_\_\_\_\_  
Chief Kirk Francis, President  
United South and Eastern Tribes  
Sovereignty Protection Fund

  
\_\_\_\_\_  
Chief Lynn Malerba, Secretary  
United South and Eastern Tribes  
Sovereignty Protection Fund

*Because there is Strength in Unity*