



United South and Eastern Tribes, Inc.  
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**USET Resolution No. 2009:040**

**REMEDY THE UNJUST AND UNEQUAL TREATMENT OF INDIAN TRIBES UNDER  
THE SUPREME COURT'S 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 is comprised of delegates from the member Tribes' leadership; and
- WHEREAS,** on February 24, 2009 the Supreme Court issued an extremely alarming decision, restricting the authority of the Secretary of the Interior under the provisions of the Indian Reorganization Act (IRA). The Court held that the term "now" in the phrase "now under Federal jurisdiction" in the definition of "Indian" limits the authority of Secretary to only provide the benefits of the IRA to Indian Tribes that were under federal jurisdiction on June 18, 1934, the date the IRA was enacted; and
- WHEREAS,** the Supreme Court has invoked a discriminatory and subjective reading of a few sentences in the IRA to establish different classes of Tribes; and
- WHEREAS,** the fundamental purposes of the IRA include supporting Tribal governments and allowing their reorganization, protecting and restoring land bases for Tribes that had been torn apart by injustices of prior injudicious and federal policies, and promoting economic development as part of an Indian New Deal, all of which demonstrate that the Court's ruling is an affront to the most basic policies underlying principles the IRA; and
- WHEREAS,** if this flawed decision stands, it will engender costly and protracted litigation and will require Interior Department determinations of the meaning of "under federal jurisdiction" on June 18, 1934, an arbitrary and uncertain legal question that undermines the fundamental principle of federal Indian policy that Tribal sovereignty and existence were not created by the federal government but are inherent and preexisted the United States; and
- WHEREAS,** the Court's decision threatens a significant number of Indian Tribes. For over 70 years the Department of Interior has consistently applied a different interpretation – that "now" means at the time of application – and has established entire Indian reservations and authorized numerous Tribal constitutions and business organizations under the IRA. There are serious and enumerable questions about the effect on long settled actions as well as on future decisions; and

*"Because there is strength in Unity"*

- WHEREAS,** by calling into question which federally recognized Tribes are or are not eligible for the IRA's provisions, the Court's ruling in *Carcieri* threatens the validity and stability of Tribal business organizations, subsequent contracts and loans, Tribal reservations and lands, and could affect jurisdiction, public safety and provision of services on reservations across the country; and
- WHEREAS,** the Supreme Court's restrictive new interpretation of the IRA is in direct conflict and inconsistent with Congress' 1994 amendments to the IRA that directed equal treatment of Indian Tribes regardless of how or when they received federal recognition; therefore, be
- RESOLVED** the USET Board of Directors calls upon Congress to reverse the Supreme Court's discriminatory decision and the damage to Congress' policy and intent, and amend the Indian Reorganization Act to make clear that the benefits of the Indian Reorganization Act are available to all federally recognized Indian Tribes; and, be it further
- RESOLVED** that any new law or amendment should unequivocally state that the Secretary of the Interior is empowered with the authority to place lands into Trust on behalf of the Federally Recognized Indian Tribes, for both governmental services and economic development purposes; and, be it further
- RESOLVED** that it should further declare that all Federally Recognized Tribes shall be entitled the same rights and privileges under the Indian Reorganization Act, including having lands taken in trust pursuant to Section 465, as of and subsequent to its enactment in June 1934; and, be it further
- RESOLVED** the USET Board of Directors calls upon the President of the United States, the Secretary of Interior and the Attorney General to consult with Indian Tribes on the concerns raised in this resolution and to actively work with Congress to support an amendment that will restore the intention of the Indian Reorganization Act.

**CERTIFICATION**

This resolution was duly passed at a Special Called USET meeting, held on Wednesday, March 11, 2009.

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

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