



# USET

SOVEREIGNTY PROTECTION FUND

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## USET SPF Resolution No. 2019 SPF:010

### **CALLING UPON THE DEPARTMENT OF THE INTERIOR TO WITHDRAW ITS SEPTEMBER 7, 2018 DECISION FINDING THAT THE MASHPEE WAMPANOAG TRIBE WAS NOT UNDER FEDERAL JURISDICTION IN 1934**

- WHEREAS,** USET Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of twenty-seven (27) 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 Nation's leadership; and
- WHEREAS,** in February of 2009, the U.S. Supreme Court in *Carcieri v. Salazar* held the Indian Reorganization Act's first definition of "Indian" includes only those Tribal Nations "under Federal jurisdiction" on June 8, 1934; and
- WHEREAS,** in 2014, the Solicitor for the Department of the Interior issued an "M Opinion" interpreting the "under federal jurisdiction" requirement and detailing the types of evidence demonstrating that a Tribal Nation was under federal jurisdiction in 1934; and
- WHEREAS,** consistent with the "M Opinion" the Department has issued decisions finding Tribal Nations to be under federal jurisdiction based on pre-1934 evidence such as the enrollment of the Tribal Nation's children in federally-run Indian schools, the inclusion of Tribal citizens on federal census records, the provision of federal health and social services to Tribal citizens, the management of federal funds for Tribal citizens, and the identification of the Tribal Nation and its citizenship in official federal reports; and
- WHEREAS,** the Department's reliance on such evidence for its "under federal jurisdiction" decisions has repeatedly been upheld by federal courts; and
- WHEREAS,** on September 7, 2018, the Department of the Interior issued a decision finding that the Mashpee Wampanoag Tribe was not under federal jurisdiction in 1934, despite the fact that the Tribe had presented clear evidence of federal jurisdiction, including, among other things, the enrollment of its children in the notorious federal Carlisle Indian School, the inclusion of its citizenship on federal census records, the management of trust funds and health care for individual Tribal citizens, and the identification of the Tribe in the federally-commissioned Morse Report regarding the state of Indian Tribes "within the jurisdiction of the United States"; and
- WHEREAS,** the Department's September 7, 2018 decision unjustifiably departs from prior decisions of the Department that found similar evidence sufficient to meet the pre-1934 "under federal jurisdiction" standard; and

**WHEREAS,** by refusing to follow its own “under federal jurisdiction” decisions and relevant case law, the Department threatens the sovereignty and security of Tribal Nations, their citizens, and their lands, inconsistent with its solemn trust responsibility; 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

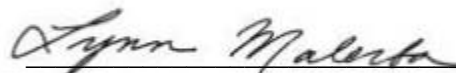
**RESOLVED** the USET Board of Directors calls upon the Department of the Interior to withdraw its misguided September 7, 2018 Decision and to reexamine the clear evidence of federal jurisdiction that the Mashpee Tribe has presented.

### CERTIFICATION

This resolution was duly passed at the USET SPF Annual Meeting held on the Sovereign Territory of the Seneca Nation of Indians, at which a quorum was present on October 11, 2018.



Chief Kirk E. Francis, Sr., President  
United South and Eastern Tribes  
Sovereignty Protection Fund



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