



*Because There is Strength in Unity*



*Our Roots Run Deep*







Seminole Council Oak Tree located on the Hollywood Seminole Indian Reservation

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*"It was a cold winter night at Cherokee Tribal fair grounds when we passed around the peace pipe and promised each other we all would stick together—no matter what."*

*-Betty Mae Jumper, Seminole Tribe of Florida*



# **UNITED SOUTH AND EASTERN TRIBES HISTORY**





## MISSION

United South and Eastern Tribes, Inc., is dedicated to enhancing the development of federally recognized Tribal Nations, to improving the capabilities of Tribal governments, and assisting the USET Members and their governments in dealing effectively with public policy issues and in serving the broad needs of Indian people.

## STATEMENT OF UNITY

We, the Eastern Band of Cherokee Indians, Chitimacha Tribe of Louisiana, Mississippi Band of Choctaw Indians, Coushatta Tribe of Louisiana, Miccosukee Tribe of Indians of Florida, Saint Regis Mohawk Tribe, Passamaquoddy Tribe Pleasant Point, Passamaquoddy Indian Township, Penobscot Indian Nation, Seminole Tribe of Florida, Seneca Indian Nation of New York, Houlton Band of Maliseet Indians, Poarch Band of Creek Indians, Tunica-Biloxi Tribe of Louisiana, Narragansett Indian Tribe, Mashantucket Pequot Tribe, Wampanoag Tribe of Gay Head Aquinnah, Alabama-Coushatta Tribe of Texas, Oneida Nation of New York, Aroostook Band of Micmac of Maine, Catawba Indian Nation of South Carolina, Jena Band of Choctaw Indians of Louisiana, Mashpee Wampanoag Tribe of Massachusetts, the Cayuga Nation, the Mohegan Tribe of Connecticut, Shinnecock Indian Nation, and Pamunkey Indian Tribe, being numbered among the Nations People of the South and Eastern United States, desiring to establish an organization to represent our united interest and promote our common welfare and benefit, do of our own free will in Council assembly, affirm our membership in the organization to be known as USET Sovereignty Protection Fund, Inc., and proclaim the following objectives and declare our purpose to be:

- To promote Indian leadership in order to move forward in the ultimate, desirable goal of complete Indian involvement and responsibility at all levels in Indian affairs;
- To lift the bitter yoke of poverty from our people through cooperative effort;
- To promote better understanding of the issues involving Indian Tribal Nations and other people;
- To advocate for more effective use of existing local, state, federal, and international resources;
- To promote a forum for exchange of ideas;
- To combine our voices so we can be heard clearly by local, state, federal, and international governments;
- To dedicate ourselves to improvement of the quality of life for American Indians through increased health, education, social services and housing opportunities;
- To reaffirm the commitments of our Tribal Nations to the treaties and agreements heretofore entered into with the Federal Government in a government-to-government relationship and to promote the reciprocity of this relationship and those agreements and treaties; and
- To provide protection of Tribal natural resources.

## UNITED SOUTH AND EASTERN TRIBES HISTORY

In the 1950s and 60s, new government policies regarding Native Americans were damaging to Tribal Nations and citizens across the country. Termination of the federal government's trust relationship became the new policy, and many Tribal governments were disbanded.

Particularly onerous was the Indian Relocation Act of 1956, which resulted in thousands of Tribal citizens becoming isolated from their communities and facing racial discrimination and segregation.

Something had to be done.

Under the Economic Opportunity Act of 1964, Community Action Agencies were established across the country. As a result, Community Action Programs (CAP) were started at the Seminole Tribe of Florida, the Mississippi Band of Choctaw Indians, the Eastern Band of Cherokee Indians, and the Miccosukee Tribe of Indians of Florida.

In 1968, the CAP directors at these Tribal Nations began to discuss the need to organize in order to pool their resources, improve their respective programs, and have more influence on the federal government. The CAP directors were Johnson Lee Owle, Cherokee; Dr. J. W. Rehbein, Miccosukee; Phillip Martin, Choctaw; and Horst Grabs, Seminole.

They realized they would need the support of their Tribal Leaders, so they arranged a meeting to be held at the Cherokee Tribal Nation on October 4, 1968. That evening, a Declaration of Unity was signed to establish United Southeastern Tribes by Miccosukee Chairman Buffalo Tiger, Cherokee Principal Chief Walter Jackson, Seminole Chairwoman Betty Mae Jumper, and Choctaw Chairman Emmett York. At a meeting in Nashville the following year, Attorney Bobo Dean presented a draft of the corporation charter, and a decision was made to incorporate the United Southeastern Tribes as a non-profit organization. On May 27, 1969, Articles of Incorporation of United Southeastern Tribes, Inc. were signed by representatives of the four Tribal Nations— Phillip Martin, Mississippi Band of Choctaw Indians; Fred Smith, Seminole Tribe of Florida; Mary Willie, Miccosukee Tribe of Indians of Florida; and Walter Jackson, Eastern Band of Cherokee Indians.

"When we first started, we didn't know where we were going. No money and no place to meet," stated former

Seminole Chairwoman Betty Mae Jumper. "After years of battling, we finally lifted the organization, the USET. It was a cold winter night at Cherokee Tribal fair grounds in North Carolina when we passed around the peace pipe and promised each other we all would stick together—no matter what."

Joe Dan Osceola, Seminole, was the first President of USET; Buffalo Tiger, Miccosukee, was the Vice-President; Fred Smith, Seminole, was the Treasurer; and Johnson Catolster, Cherokee, was the Secretary. The CAP programs were essential because they provided the funds for organizing. Subsequently, grants from the Bureau of Indian Affairs, Indian Health Service, and the Department of Health, Education, and Welfare became the major source of funds.

As explained by Tiger, "USET was organized so that Tribal Nations could gain political power and [advocate and educate Congressional members] on issues such as health care. [The Miccosukee] began contracting BIA programs and administering program services and funds ourselves. In 1973, we requested support from USET [Tribal Nations] at a meeting down here. Chairman Emmett York from Choctaw agreed with us that we could do it, and we continued to push the idea. We continued to negotiate with IHS officials."

Initially USET operated out of Atlanta, but the offices soon moved to Sarasota. One of the big successes early on — an event that put USET "on the map"—was hosting the National Congress of American Indians (NCAI) in Sarasota. In 1972, NCAI didn't have the money to hold their annual conference. So Osley Saunook, Cherokee, who was Executive Director at the time, asked Commissioner of Indian Affairs Louis R. Bruce for help. Bruce approved "Category 99" funds for the conference, USET was the host, and it was so successful that USET provided the scholarship for the NCAI Princess and gave the profits from the conference to NCAI.

The conference was important because it showed other Tribal organizations that USET could play a key role in influencing federal policy toward American Indians. Another early success was convincing the BIA to establish another region—the Eastern Area Office—to work with the Seminoles, Miccosukees, Choctaws, Cherokees, and a few other eastern Tribal Nations.





Left to right: Jackson Isaac, Mississippi Band of Choctaw Indians; Walter Jackson, Eastern Band of Cherokee Indians; Emmett York, Mississippi Band of Choctaw Indians; Buffalo Tiger, Miccosukee Tribe of Indians of Florida; Joe Dan Osceola, Seminole Tribe of Florida; Johnson Catolster, Eastern Band of Cherokee Indians; Betty Mae Jumper, Seminole Tribe of Florida; and Phillip Martin, Mississippi Band of Choctaw Indians.

In just a few short years, USET had become a model inter-tribal organization for the rest of Indian country.

Others who contributed to the founding and early success of USET were Cherokee CAP Director Savannah Bigwitch; Cherokee Key Wolfe, an IHS employee in the Sarasota Office; and Ron Canouryer, an IHS employee, an excellent grants writer, and later Executive Director of USET. Particularly helpful in the early years was Congressman James A. Haley of Sarasota, who served as chairman of the Committee on Interior and Insular Affairs from 1973 to 1976.

Osceola described the early days: "We were always running out of money for our health needs. It was primarily the CAP directors of the four southeastern [Tribal Nations] and the Tribal Leaders that were involved in the founding of USET. Key Wolfe worked with IHS in the Sarasota office, he was real helpful in the beginning. He helped us organize and provided some IHS funds. Ron Canouryer was also an IHS employee that helped with administration in the early years, and helped us get grants."

In 1972, the Seneca Nation became a USET member Tribal Nation, and in 1976, the Saint Regis Mohawk Tribe became a member. As a result, on December 3, 1979, documents were executed to change United Southeastern Tribes to United South and Eastern Tribes, Inc. The original USET office was first located in Emory University, Atlanta, GA, then moved to Sarasota, FL in 1972. Relocation came once more in 1975 with a move to Nashville, TN, where USET continues to exist today.

In October 2014, USET established the USET Sovereignty Protection Fund, a 501(c)(4) nonprofit sister organization that provides advocacy, education, and awareness on

behalf of its member Tribal Nations within all branches of the federal government. USET SPF strives to promote, protect and advance the inherent sovereign rights and authorities of Tribal Nations, assist member Tribal Nations in dealing effectively with public policy issues, and to elevate the voices of USET Tribal Nations at the federal level. USET SPF offices are located in Washington, DC.

In 2016, USET established the USET Community Development Financial Institution, Inc. (USET CDFI), a 501(c)(3) nonprofit organization to provide low-interest loans to Tribal businesses that are unable to obtain loans from traditional sources. This allows capital investment and increased economic development in Tribal communities.

USET membership now includes 27 Tribal Nations, from Maine to Florida to Texas. Working together, USET is enhancing Tribal Nations and providing a strong voice regarding federal policies and programs throughout Indian country.

USET is dedicated to enhancing the development of Tribal Nations, improving the capabilities of Tribal governments, and improving the quality of life for Indian people through a variety of technical and support services. This includes better healthcare, enhanced economic development, cleaner water, and improved wastewater systems, among many others.

The meeting 50 years ago on that cold winter night on the ancestral lands of the Cherokee resulted in one of the foremost intertribal organizations in Indian country, providing a better life for Tribal citizens and a strong voice for better federal policies and programs.

TO: INCORPORATE THE UNITED SOUTHEASTERN TRIBES

UNITED SOUTHEASTERN TRIBES

RESOLUTION NO. USET-1-69

WHEREAS: The representatives of the Eastern Band of Cherokee Indians of North Carolina, the Mississippi Band of Choctaw Indians, the Seminole Tribe of Florida, and the Miccosukee Tribe of Florida, have determined to form a private, nonprofit corporation to assist the Indians of the Southeastern United States in the improvement of their social and economic conditions and for other nonprofit purposes; and

WHEREAS: Such representatives have reviewed proposed Articles of Incorporation and have agreed to the forms thereof attached hereto;

NOW THEREFORE, BE IT RESOLVED: That the persons named in such Articles as incorporators be, and hereby are, authorized, empowered, and directed on behalf of the four tribes listed above to execute the Articles in such form and to cause the same to be filed with the Recorder of Deeds of the District of Columbia pursuant to the District of Columbia Nonprofit Corporation Act and to take such other action as may be necessary to organize the corporation as a nonprofit corporation in accordance with the provisions of such Act.

DONE THIS 16th DAY OF MAY, 1969, in Quarterly Council Assembled, at Nashville, Tennessee, by a unanimous vote, a quorum being present.

APPROVED:

  
Secretary - Inter-Tribal Council  
UNITED SOUTHEASTERN TRIBES

  
Chairman - Inter-Tribal Council  
UNITED SOUTHEASTERN TRIBES

ARTICLES OF AMENDMENT  
TO THE  
ARTICLES OF INCORPORATION  
OF  
UNITED SOUTHEASTERN TRIBES, INC.

FILING FEE  
INDEXING FEE

\$5.00  
2.00  
\$7.00

Pursuant to the provisions of the District of Columbia Nonprofit Corporation Act, the undersigned adopts the following Articles of Amendment to its Articles of Incorporation:

1. The name of the Corporation is United Southeastern Tribes, Inc.
2. The Articles of Incorporation is amended by deleting Article I(a) and by substituting, "The name of the Corporation is United South and Eastern Tribes, Inc. (hereinafter referred to as the "Corporation")."
3. The Corporation has no members. The Amendment was adopted, having received the vote of a majority of the directors in office at a meeting of the Board of Directors on 15 Nov. 1978.

Date: 3 December 1979

United Southeastern Tribes, Inc.

By

Michael D. Lujan  
President



Attest

Robert Renda  
Secretary

FILED

JAN 30 1980

BY: DH

## CHRONICLE OF THE GROWTH OF USET

Formation of United Southeastern Tribes Emory University, Atlanta, GA	October 1968 4 Tribal Nations		
Annual Budget—\$90K 0 Staff 4 Tribal Nation Members	1969	1969 USET	Incorporation of United Southeastern Tribes
United Southeastern Tribes, Inc. becomes United South and Eastern Tribes, Inc.	1978 Name Change	1975 New Location	USET moved from its 2nd location of Sarasota, FL (since '72) to Nashville, TN
USET moves into the current headquarters, Nashville, TN	1994 New Building	1982 Calumet	Calumet Development Company TN Incorporated C-Corp
Annual Budget—\$1.03M 6 Staff 23 Tribal Nation	1999	1995 THPS	Tribal Health Program Support Department Established
Development Department Established	2012 Development	2004 OERM	Office of Environmental Resource Management Department Established
Economic Development Department Established	2015 Economic Development	October 2014 USET SPF	USET Sovereignty Protection Fund 501c4 Established & approved by IRS Opened office in DC
USET Community Development Financial Institution Established Tax Approval	2018 USET CDFI	2015 Organizational Litigation Activity	Organizational Litigation Activity begins furthering Advocacy
		2019	Annual Budget—\$15.8M 43 Staff 27 Tribal Nation Members



## USET PRESIDENTS PAST AND PRESENT



**Kirk Francis, Sr.**  
Penobscot Indian Nation  
2016-Current



**Brian Patterson**  
Oneida Indian Nation  
2006-2016



**Keller George**  
Oneida Indian Nation  
1994-2006



**Eddie Tullis**  
Poarch Band of Creek Indians  
1990-1994



**Joel Frank, Sr.**  
Seminole Tribe of Florida  
1986-1990



**Leonard Garrow**  
Saint Regis Mohawk Tribe  
1982-1986



**Michael Tiger**  
Seminole Tribe of Florida  
1978-1982



**Jonathan L "Edd" Taylor**  
Eastern Band of Cherokee Indians  
1976-1978



**Howard Tommie**  
Seminole Tribe of Florida  
1973-1976



**Phillip Martin**  
Mississippi Band of Choctaw Indians  
1971-1973



**Emmett York**  
Mississippi Band of Choctaw Indians  
1970-1971



**Joe Dan Osceola**  
Seminole Tribe of Florida  
1969-1970

## EXECUTIVE OFFICERS



**B. Cheryl Smith**  
**Treasurer**

Chief, Jena Band of Choctaw Indians  
B. Cheryl Smith has spent her professional career working in various capacities for the Jena Band of Choctaw Indians, including as a member of Tribal Council from 1975 until 1998, 2004 through 2010, elected Chief in 2010.

**Kirk Francis**  
**President**

Tribal Chief, Penobscot Indian Nation  
Kirk Francis has served as Chief of the Penobscot Indian Nation since 2006 and holds the distinction of being the Nation's longest-serving Chief since the electoral system began in 1850. Prior to becoming USET President, he served as Treasurer.

**Robert McGhee**  
**Vice-President**

Vice-Chairman, Poarch Band of Creek Indians  
Robert "Robbie" McGhee serves as the Vice Chairman of the Poarch Band of Creek Indians Tribal Council and has been an advocate for Native American issues at all levels of government.

**Lynn Malerba**  
**Secretary**

Chief, Mohegan Tribe of Indians of Connecticut  
Chief Mutawi Mutahash "Lynn" Malerba became the 18th Chief of the Mohegan Tribe of Connecticut in August of 2010, which is a lifetime appointment, and is the first female Chief in the Tribal Nation's modern history.





*"The United South and Eastern Tribes, its member Tribal Nations, and the many leaders who have been instrumental over the years in helping with the growth of this vital organization and strengthening our presence in Indian country, have been the forbearers of vision, have been voices of change, and have been instruments of strength for our Native people. As one of the founding members of USET, the Mississippi Band of Choctaw Indians celebrate the collective success, tremendous diversity, and commitment of USET/USET SPF to build brighter futures for our next generation of Native people. It is through our common bonds as America's first people that we will continue to thrive and persevere as Tribal Nations strengthened by the bond of our unity."*

*-Chief Cyrus Ben, Mississippi Band of Choctaw Indians*



## **MEMBER TRIBAL NATIONS**



## USET TRIBAL NATIONS & LOCATIONS

1. **Eastern Band of Cherokee Indians**  
Cherokee, North Carolina
2. **Miccosukee Tribe of Indians of Florida**  
Miami, Florida
3. **Mississippi Band of Choctaw Indians**  
Choctaw, Mississippi
4. **Seminole Tribe of Florida**  
Hollywood, Florida
5. **Chitimacha Tribe of Louisiana**  
Charenton, Louisiana
6. **Seneca Nation of Indians**  
Salamanca, New York
7. **Coushatta Tribe of Louisiana**  
Elton, Louisiana
8. **Saint Regis Mohawk Tribe**  
Hogansburg, New York
9. **Penobscot Indian Nation**  
Indian Island, Maine
10. **Passamaquoddy Tribe – Pleasant Point**  
Perry, Maine
11. **Passamaquoddy Tribe – Indian Township**  
Princeton, Maine
12. **Houlton Band of Maliseet Indians**  
Littleton, Maine
13. **Tunica-Biloxi Tribe of Louisiana**  
Marksville, Louisiana
14. **Poarch Band of Creek Indians**  
Atmore, Alabama
15. **Narragansett Indian Tribe**  
Charlestown, Rhode Island
16. **Mashantucket Pequot Tribal Nation**  
Mashantucket, Connecticut
17. **Wampanoag Tribe of Gay Head (Aquinnah)**  
Aquinnah, Massachusetts
18. **Alabama-Coushatta Tribe of Texas**  
Livingston, Texas
19. **Oneida Indian Nation**  
Verona, New York
20. **Aroostook Band of Micmacs**  
Presque Isle, Maine
21. **Catawba Indian Nation**  
Rock Hill, South Carolina
22. **Jena Band of Choctaw Indians**  
Jena, Louisiana
23. **The Mohegan Tribe**  
Uncasville, Connecticut
24. **Cayuga Nation**  
Seneca Falls, New York
25. **Mashpee Wampanoag Tribe**  
Mashpee, Massachusetts
26. **Shinnecock Indian Nation**  
Southampton, New York
27. **Pamunkey Indian Tribe**  
King William, Virginia
28. **USET Headquarters**  
Nashville, Tennessee
29. **USET SPF Office**  
Washington, DC





# EASTERN BAND OF CHEROKEE INDIANS

## ANI'YUNWIYA

**USET founding member October 1968**

### Member Information

- Location: Western North Carolina, just south of Great Smoky Mountains National Park. The main part of the reservation lies in eastern Swain County and northern Jackson County, but smaller non-contiguous sections are located to the southwest in Cherokee County (Cheoah community) and Graham County (Snowbird community). A small part of the main reservation extends eastward into Haywood County.
- Land Size: More than 56,000 acres
- Population: ~14,000 Tribal Citizens
- Main Industries: Tourism, Recreation, Hospitality, Gaming

Cherokee is a sovereign nation, meaning it has its own laws, elections, government, institutions, and the like. Though it has relationships with the United States federal government and the North Carolina state government that are vitally important, the general population may be interested to know that the Cherokees are self-governed and autonomous. The Cherokee government consists of an Executive Branch with a Principal Chief and a Vice-Chief, a Legislative Branch made up of a 12-member Tribal Council – two representatives each, from six townships, and a Judicial Branch. All government officials are elected using a democratic voting system. The Tribal

Nation financially pays for schools, water, sewer, fire, and emergency services without assistance from the federal government.

Located in Cherokee, North Carolina, the Eastern Band of Cherokee Indians were once part of a much larger Cherokee Nation population. However, when the Trail of Tears was mandated, and forced removal and relocation were directed by the US government and then President Andrew Jackson, the Cherokee Tribe became divided into what is known today as the Cherokee Nation and United Kituwah Band, located in Oklahoma, and the Eastern Band, made up of those who remained and rebuilt within North Carolina's Qualla Boundary.

The Museum of the Cherokee Indian exhibits an extensive collection of artifacts and items of historical and cultural interest, from the early Mississippian Period, of which there are remains in the area, to the Cherokee Culture brought by their migrants in the 16th and 17th centuries. They are an Iroquoian-speaking people related to those nations in the Iroquois Confederacy and other Iroquoian-speaking groups traditionally occupying territory around the Great Lakes. The Qualla Arts and Crafts Mutual, located near the museum, sells traditional crafts made by its members. Founded in 1946, the Qualla Arts and Crafts Mutual, Inc., is the nation's oldest and foremost Native American cooperative.



Photo credit: Scott McKie



# MICCOSUKEE TRIBE OF INDIANS OF FLORIDA

MIKASUKI

## USET founding member October 1968

### Member Information

- Location: Miami, Florida
- Land Size: More than 78,000 acres
- Population: ~600 Tribal Citizens
- Main Industries: Tourism, Recreation, Hospitality, Gaming

The Miccosukee Tribal Nation has a proud history, which predates Columbus. The Miccosukee Indians were originally part of the Creek Nation, and then migrated to Florida before it became part of the United States. During the Indian Wars of the 1800s, most of the Miccosukee were removed to the West, but about 100, mostly Mikasuki-speaking Creeks, never surrendered and hid out in the Everglades. Present Tribal citizens now number over 600 and are direct descendants of those who eluded capture.

To survive in this new environment, the Miccosukee adapted to living in small groups in temporary "hammock style" camps spread throughout the Everglades' vast river of grass. In this fashion, they stayed to themselves for about 100 years, resisting efforts to become assimilated. Then, after the Tamiami Trail highway was built in 1928, the Tribal Nation began to accept New World concepts.

To ensure that the federal government would formally recognize the Miccosukee Tribe of Indians of Florida, Buffalo Tiger, an esteemed citizen of the Tribal Nation, led a group to Cuba in 1959, where they asked Fidel Castro for, and were granted, international recognition as a sovereign country within the United States. Following this, on January 11, 1962, the U.S. Secretary of the Interior approved the Miccosukee Constitution and the

Tribal Nation was officially recognized as the Miccosukee Tribe of Indians of Florida. This legally established the Miccosukee's Tribal existence and their sovereign, domestic dependent nation status with the United States Government.

On May 4, 1971, officers of the Miccosukee Corporation, acting for the Miccosukee Tribe, signed a contract with the Bureau of Indian Affairs (BIA) authorizing the Corporation to operate all programs and services provided for the Miccosukee Community and formerly administered by the BIA. The Tribal Nation's intent in negotiating this matter was clear; the people wished to decide their own fate and gradually develop total independence.

A General Council including the Chairman, Vice Chairman, Secretary, Lawmaker and Treasurer currently governs the Tribal Nation. The responsibilities of the General Council consist of development and management of resources and the day-to-day business activities of the Tribal Nation including those involving membership, government, law and order, education, welfare, recreation and fiscal disbursement.

This group is also known as the Business Council. It is a combination of traditional Tribal government and modern management that form the organizational structure of the present day Miccosukee Tribal Nation. The Miccosukee Tribe of Indians of Florida operate a Clinic; Police Department; Court System; Day Care Center; Senior Center; Community Action Agency and an Educational System ranging from the Head Start Pre-School Program through Senior High School, Adult, Vocational and Higher Education Programs and other Social Services. These programs incorporate both the traditional Miccosukee Indian ways and non-Indian ways into their system.







# MISSISSIPPI BAND OF CHOCTAW INDIANS

## CHAHTA

### USET founding member October 1968

#### Member Information

- Location: 10 counties surrounding Choctaw, MS
- Land size: 35,000 acres
- Population: ~10,000 Tribal Citizens
- Main Industries: Tourism, Recreation, Hospitality, Gaming, Manufacturing

When Europeans began settling America in the 16th century the Choctaw were living in the South-Eastern United States, largely in the area that was to become Mississippi. The Choctaw lived off both agriculture and hunting/gathering. Their principal source of food was corn, beans and pumpkins, nuts, fruit, fish, bear and deer. In the wars between the French and the British during the 18th century the Choctaw allied themselves with the French. Consequently, following the defeat of the French in the French and Indian War (1754-63), some of the Choctaw land was taken from them by the British, forcing some to move westwards in search of new land.

Mississippi Choctaws have a strong tradition of doing business. As early as 1700, the Tribal Nation had developed a strong economy based on farming and selling goods and livestock to the Europeans who were beginning to venture into Choctaw territory. Throughout the 18th century, the Choctaws were a prosperous people with large land holdings. Their lands spread over what is now central Mississippi. As the United States of America came into being, however, the expansion of the new

nation brought pressures for more land and the federal government turned its attention to land held by American Indians. Like other Southeastern Tribal Nations, the Choctaws were placed in the position of negotiating over their lands.

Shortly thereafter, in 1801, the Treaty of Fort Adams was signed in which the Choctaws ceded to the United States 2,641,920 acres of land from the Yazoo River to the thirty-first parallel. That was the first in a series of treaties between the Choctaws and the United States. More and more Choctaw land was ceded to the federal government with each successive treaty — between 1801 and 1830, the Choctaw ceded more than 23 million acres to the United States. The Treaty of Dancing Rabbit Creek in 1830 marked the final cession of lands and outlined the terms of Choctaw removal to the west. Indeed, the Choctaw Nation was the first American Indian Tribal Nation to be removed by the federal government from its ancestral home to land set aside for them in what is now Oklahoma. When the Treaty of Dancing Rabbit Creek was signed, there were over 19,000 Choctaws in Mississippi. From 1831 to 1833, approximately 13,000 Choctaws were removed to the west. Today, citizens of the Mississippi Band of Choctaw Indians are descendants of the proud Choctaw individuals who refused to be removed to Oklahoma in the 1830s.

Tribal citizens of the Mississippi Band of Choctaw Indians live in eight communities of Bogue Chitto, Bogue Homa, Conehatta, Crystal Ridge, Pearl River, Red Water, Standing Pine and Tucker. The Tribal government consists of a Tribal Council, including Chief, Vice Chief, Secretary/Treasurer, a Committee Systems Chairperson and fourteen council members representing the eight Choctaw communities. The Council is responsible for passing all the laws and regulations on the reservation.







# SEMINOLE TRIBE OF FLORIDA

## I:LAPONATHLI

### USET founding member October 1968

#### Member Information

- Location: Big Cypress, Brighton, Hollywood, Immokalee and Tampa Reservations as well as Fort Pierce and Coconut Creek Trust properties
- Land Size: ~89,000 acres
- Population: ~3,762 Tribal Citizens
- Main Industries: Tourism, Recreation, Hospitality, Gaming, Retail

Ancestors of the Seminoles have lived in what is now the Southeastern United States for at least 12,000 years. The 20th century saw the re-emergence of those Florida Seminoles who had resisted removal, and survived economically by selling plumes, hides, fish and game at trading posts like Smallwood in Chokoloskee, Brown's Boat Landing in Big Cypress, and Stranahan in Fort Lauderdale. Other Seminoles profited from the early boom in Florida tourism by selling crafts and wrestling alligators.

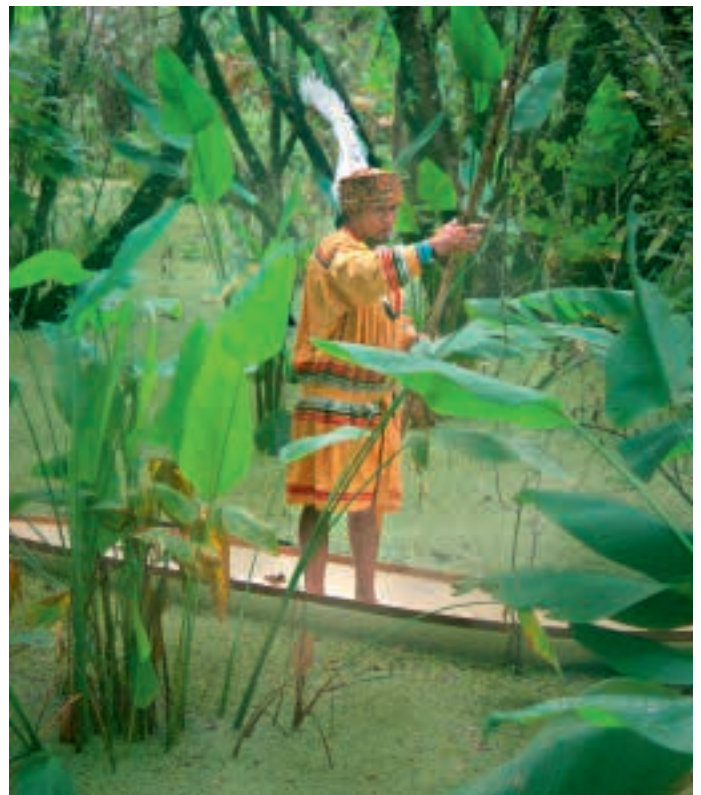
The 1920s closed with two profound events, the completion of the Tamiami Trail, which opened Florida's last frontier, and the deadliest hurricane in history, the 1928 storm, which whipped the waters of Lake Okeechobee into a tidal wave that drowned an estimated 4,000 people.

In the 1930s and 40s, American Indians were treated as orphaned wards by a federal government preoccupied with world conflict. After World War II, a policy of termination and assimilation was pursued by the United States. Again, the Seminoles were among the resisters, demanding a settlement for lands lost, writing their own constitution and receiving federal recognition in 1957.

By 1957, after numerous community meetings, a constitution was forged establishing a two-tiered government (Tribal Council and Board of Directors) with elected representation from each Seminole community. That same year, the U.S. Congress officially recognized the unconquered Seminole Tribe of Florida; the Tribal Nation immediately began wading into the mainstream of the federal Indian system.

The first Seminole government achieved what many felt was impossible, bringing the chaos of a new organization under control and the first monies into the tiny Tribal treasury. Thus began the modern era of the Seminole Tribe of Florida. The wise framers of the Seminole Constitution foresaw an economic prosperity far beyond the small-time tourism ventures - alligator wrestling shows, airboat rides, roadside arts and crafts booths, village tours - that had become the staple of individual and Tribal economy.

Today, the Council administers the Seminole Police Department, the Human Resources programs, the Tribal gaming enterprises, citrus groves, the Billie Swamp Safari, the Ah-Tah-Thi-Ki Museum and the majority of the Tribal Nation's cigarette-related enterprises. The Seminole Tribe of Florida's Legal Services Department administers a public defender's office, Water Resource Management, and the Utilities Department.





# CHITIMACHA TRIBE OF LOUISIANA

## SITIMAXA

**USET member since November 1971**

### Member Information

- Location: Charenton, Louisiana in St. Mary Parish on Bayou Teche
- Land Size: 445 acres reservation trust land; 562 fee land acres
- Population: ~1,300 Tribal Citizens
- Industries: Tourism, Recreation, Hospitality, Gaming, Services



The Chitimacha Tribe of Louisiana is the only Tribal Nation in Louisiana to still occupy a portion of their aboriginal homeland. The Chitimacha, according to oral history, "have always been here." At the time of contact with European explorers and other non-indigenous populations, the Chitimacha were known as the most powerful Tribal Nation between Texas and Florida. As a sovereign nation, the Chitimacha Tribe of Louisiana share a unique government-to-government relationship with the United States.

On September 14, 1970, the Tribal Nation adopted a Constitution and bylaws, and the traditional system of government was replaced with a Tribal Council. The Council consists of five elected officials – Chairman, Vice-Chairman, Secretary/ Treasurer, and two Councilman-at-Large. The Tribal government takes care of their citizens with its own Police Department, Fire Department, Health Clinic, Pharmacy, Museum, Cultural/Historic Preservation office, Elderly Assisted Living facility, Housing program, Scholarship program, and many others. They are constantly upgrading social and emergency services to Tribal citizens and others in the vicinity of Charenton; and they are leaders in the preservation of cultural resources for future generations.

The crown jewel of the Chitimacha cultural tradition is river cane basketry, both single and double woven. According to Tribal legend, basketry was taught to the Chitimacha by a deity and has been practiced by Tribal families for thousands of years.







# SENECA NATION OF INDIANS

## ONONDOWA'GA'

### USET member since June 1972

#### Member Information

- Location: Five sovereign territories are located along the Allegany River, along Cattaraugus Creek near Lake Erie, also in Cuba, Niagara Falls, NY and Buffalo, NY
- Land Size: Comprised of 31,095 acres in the Allegany Territory; 22,011 acres in the Cattaraugus Territory; one square mile in Cuba, known as the Oil Spring Territory; 30 acres in Niagara Falls, New York and 9 acres in Buffalo
- Population: More than 8,000 Tribal Citizens
- Main Industries: Tourism, Recreation, Hospitality, Gaming, Energy, Retail, Services

The Seneca are known as the "Keeper of the Western Door," for the Seneca are the westernmost of the Six Native American Nations which comprised the Iroquois Confederacy, a democratic government that pre-dates the United States Constitution. In the Seneca language they are known as O-non-dowa-gah, (pronounced: Oh-n'own-dough-wahgah) or "Great Hill People."

The historical Seneca occupied territory throughout the Finger Lakes area in Central New York, and in the Genesee Valley in Western New York, living in longhouses on the riversides. The people relied heavily on agriculture for food, growing the Three Sisters: corn, beans, and squash, which were known as Deohako, (pronounced: Jo-hay-ko) "the life supporters." In addition to raising crops, the early Seneca were also subsistence hunters and fishers. The Seneca were also highly skilled at warfare and were considered fierce adversaries. But the Seneca were also renowned for their sophisticated diplomatic and oratory skills and their willingness to unite with the other original five nations to form the Iroquois Confederacy of Nations.

The modern day Seneca Nation of Indians is a true democracy whose constitution was established in 1848. The Nation's constitution provides for a multi-branch system of government that is comprised of elected Executive and Legislative branches, and an elected Judicial branch. The Executive Branch leadership includes a president, treasurer and clerk. The Legislative Branch is

led by a 16-member Tribal Council, comprised of an equal number of representatives from the Cattaraugus and Allegany territories. The Judiciary Branch is comprised of three separate divisions, the Peacemaker, Appellate and Surrogate courts. The Peacemakers Court is the court of general jurisdiction and is located on each of the Allegany and Cattaraugus Territories. The Surrogate Court is comprised of one Surrogate for each of the Allegany and Cattaraugus Territories, and exercises jurisdiction over probate matters. The Court of Appeals is comprised of six judges who hear appeals from the Peacemakers and Surrogates Courts. The Council serves as Supreme Court and exercises limited jurisdiction over certain appeals from the Court of Appeals.

The Seneca Nation supports its citizens and benefits surrounding communities with a variety of cultural, educational and economic efforts. Language, song, art, dance, and sports are all vital aspects of Seneca culture. Although the number of fluent Seneca language speakers is diminishing and the language is considered at-risk, there are language programs at the Seneca Nation in place to help protect, preserve and develop a new generation of Seneca language speakers to keep the Seneca language alive. A Faithkeepers' School supports and ensures the ongoing practice of traditional teachings, arts, knowledge and the living culture of the Longhouse ways.





# COUSHATTA TRIBE OF LOUISIANA

## KOASATI

### USET member since August 1974

#### Member Information

- Location: Allen Parish, North of Elton, LA East of Kinder, LA
- Land Size: ~1,050 acres of Reservation trust land & 5,760 acres fee land
- Population: 900 Tribal Citizens
- Main Industries: Tourism, Recreation, Hospitality, Gaming, Agriculture

The Sovereign Nation of the Coughatta Tribe of Louisiana is a federally recognized Native American Tribal Nation who have called the piney woods of Southwest Louisiana home for more than a century. As the 20th century dawned, Coughatta leaders began to engage the United States government to ensure the well-being of their people. Years of advocacy paid off in 1935, as the federal government extended tuition funding to Coughatta children and, in 1945, offered community members contract medical care. Then, in 1953, the relationship between the Coughatta and the federal government soured, when, despite earlier treaties with the Tribal Nation, the Bureau of Indian Affairs terminated all services to the community without congressional approval or community consent.

Efforts to regain federal recognition began in 1965, as community members organized Coughatta Indians of Allen Parish, Inc. and established a local trading post to

sell Coughatta pine needle baskets. In 1970, Coughatta leaders began petitioning the Indian Health Service to again provide medical care for medical care for Tribal citizens. These efforts were successful in 1972, which was the same year the Louisiana Legislature granted the Coughattas official recognition. Finally, in June of 1973, the Coughatta Tribe of Louisiana, under Tribal Chairman Ernest Sickey, once again received federal recognition from the Secretary of Interior. After regaining federal recognition, the Coughatta Tribe of Louisiana began investing in a variety of enterprises in order to provide revenue for their Tribal government and jobs for community citizens. The Coughatta Tribe has constructed Tribal housing, rice and crawfish farming and development of new business programs, as well as buildings to house the Tribal Government and Tribal Finance Departments; a Tribal Police and Fire Department; and Community, Health and Learning centers. The Tribal Nation also operates a variety of smaller business enterprises, as well as health, educational, social and cultural programs, that have economic and social impact on the Tribal and surrounding communities.

Women's roles have always been prominent in Coughatta society. The Coughatta people work hard to preserve their Koasati language, their traditional crafts, such as their longleaf pine needle basketry, and their cultural traditions, including dancing, clothing styles, songs, and food-ways. Like many other traditions and practices, the Coughatta family unit continues to flourish and in itself remains the cornerstone of Coughatta life. Today, the Tribal Nation is composed of seven large families known as "clans".

From their earliest days as a proud, hard-working people struggling to maintain long-standing traditions in the face of possible relocation, the Coughatta Indians have endured and overcome every hardship they have faced and have remained on Tribal lands in and around Elton, Louisiana, since the 1800s. Despite serious setbacks and some population dispersal, the Tribal Nation's character and ideals have not only held fast, but have been strengthened. The Coughatta language, Koasati, is still spoken as a first language in the Coughatta community today.





# SAINT REGIS MOHAWK TRIBE

## AKWESASNE

### USET member since August 1976

#### Member Information

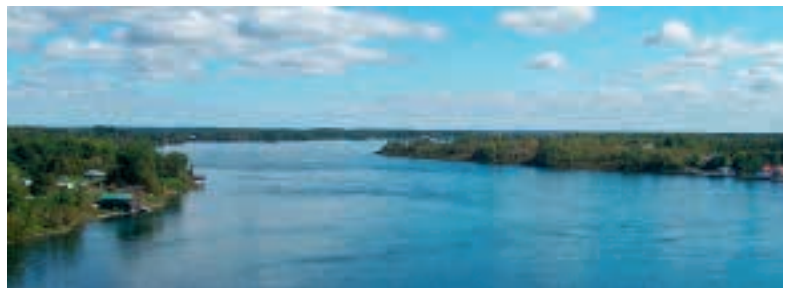
- Location: Along the Saint Lawrence River, straddling the international and provincial borders on both banks of the river. The New York portion is located in Franklin County and also contains the village of Hogansburg, while the other 3 districts are located in Quebec and Ontario Canada.
- Land Size: ~14,648 acres on U.S. side; ~7,400 acres on Canadian side
- Population: 13,192 Tribal Citizens
- Main Industries: Tourism, Recreation, Hospitality, Gaming, Telecommunications, Private Sector Economy

The Mohawk are traditionally the keepers of the Eastern Door of the Iroquois Confederacy, also known as the Six Nations Confederacy or the Haudenosaunee Confederacy. Their original homeland is the north eastern region of New York State extending into southern Canada and Vermont.

Throughout the 19th century the Saint Regis Mohawk Tribal Council Government evolved to a point where the trustees were called Tribal Chiefs, elected by majority vote. The Tribal Council is comprised of three Chiefs, three Sub-Chiefs and a Tribal Clerk. The Saint Regis Mohawk Tribal Council Chiefs are responsible for setting policy and making major decisions on behalf of the Tribal Nation. They oversee the operation of the Saint Regis Mohawk Tribal government and assure that quality programs and services are made available to their Tribal citizens. The Tribal Clerk maintains the official records of Council. New York State and the United States Federal Government deal with the Saint Regis Mohawk Tribal Council on a government-to-government level. After the American War of Independence, the Mohawk people found it necessary to deal with the government of the State of New York. In order to protect themselves and their best interests, the Mohawks decided to select representatives to interact with New York. In the 1930s the Federal Government proposed the Indian Reorganization Act (IRA). Each Tribal Nation was given the opportunity to reject the IRA and the Saint Regis Mohawks did

reject the Act of 1935. In 1953, a federal task force arrived at Saint Regis to prepare termination legislation but the Chiefs and Saint Regis citizens rejected the termination. Despite this, the Bureau of Indian Affairs proposed bill was presented to Congress where it died in committee without serious consideration. Administrative termination of Tribal Nations continued throughout the 1950s. In the mid-1960s, however, the Federal Government was reminded that there had been no official termination of the federal relationship with the New York State Iroquois. The acknowledgment of the federal relationship was slow to manifest itself. Following preliminary findings, the leaders of the Iroquois Tribal Nations, including those of the Saint Regis, were invited to Washington to explore the establishment of a viable relationship. The Tribal Council has received Federal and State funds for a variety of Tribally administered programs since 1973, all of which primarily employ Tribal citizens. The Saint Regis Mohawk Tribe administers its own environmental, social, policing, economic, health and educational programs, policies, laws and regulations.

The Mohawk people strongly believe in perpetuating their language, songs, dances and special ceremonies in the old way within traditional Longhouses. Failure to keep sacred this tradition would be in violation of the teachings passed on by the Creator. Mohawk people of today have combined centuries-old ways of living into 20th century everyday life. The values of historical culture still remain present in daily life. A distinctive heritage, language, ceremonies and traditional beliefs are still revered and maintained. The code of everyday living, "The Great Law", has been kept alive by verbal teachings and continued practices for hundreds of years. People still honor the traditional system of Chieftainship, Clan Mothers and Faith Keepers.







# PENOBSCOT INDIAN NATION

## PANAWAHPSKEK

### USET member since May 1979

#### Member Information

- Location: Indian Island Reservation near Old Town, Maine
- Land Size: 118,923 acres
- Population: 2,398 Tribal Citizens
- Main Industries: Tourism, Recreation, Retail, Energy, Services

The ancestral home of the Penobscot Nation covered the entire Penobscot River Watershed in eastern Maine. The rich resources of the area amply supplied the early Penobscot people with fish, game and native plants. Culturally, the Penobscots are one of the four Tribal Nations of the original Eastern Abenaki group. The Tribal Nation is a member of the Wabanaki Confederacy. The citizens of Penobscot Indian Nation speak a dialect of the eastern Algonquian language. The Penobscot Nation is one of the oldest continuously operating governments in the world.

The Penobscots did not receive federal recognition until late in the 20th century. The U.S. District Court ruled that the Non-intercourse Act was applicable to the Penobscot and Passamaquoddy Tribal Nations, despite the previous lack of federal recognition. This ruling established a trust relationship with the United States and in effect ordered the federal government to litigate a Non-intercourse Act claim against the State of Maine for damages arising from the illegal taking of Indian lands. The decision also made the Maine Tribal Nations eligible for federal benefits such as housing, education, health care, and other social services. In April of 1980, the Maine legislature adopted the Maine Implementing Act, settling the outstanding land claims. Six months later, the U.S. Congress approved the corresponding federal legislation. As a result of this complex settlement, the Penobscot Nation is recognized as a sovereign, federally recognized Tribal Nation, a municipality under state law, and a business entity.

The Penobscot Nation currently operates many departments and programs, offering Child and Family Services, Elder Services, Child Daycare, Law Enforcement, Forestry, Adult Vocational Training, Health Services, Natural Resources and many others. The Penobscot Nation citizens elect a twelve-member Tribal Council as well as a Chief and Vice Chief. Nation citizens also elect a Penobscot Legislative Representatives to represent them in the Maine Legislature.





# PASSAMAQUODDY TRIBE – PLEASANT POINT

## PESKOTOMUHKATI

### USET member since May 1979

#### Member Information

- Location: Rural and coastal Washington County, Maine
- Land Size: 128,088 acres
- Population: 2,014 Tribal Citizens
- Main Industries: Tourism, Recreation, Agriculture, Retail

Passamaquoddy have lived and flourished within their homeland at least since the time when the Laurentide Ice Glaciers melted away from northeastern North America, about 10 to 14 thousand years ago. For millennia the Passamaquoddy way-of-life was to hunt, fish, trap and gather food and medicine and to employ the natural resources of the environment to sustain their communities. The Tribal Nation used an elaborate network of rivers, lakes, and portages to trade with other Tribal Nations in New England, the Maritime Provinces of Canada, and beyond. Over the past 400 years the encroachment and degradation of the resources in their homeland forced Passamaquoddy's to adapt, forcing a shift away from their traditional indigenous economy.

By 1755, the Passamaquoddy Tribe was one of only a few Tribal Nations still residing in Maine, many of the others having been forced to flee into Canada because of their allegiance to the French during the French and Indian wars. Congress, in 1790, passed legislation to curtail exploitation of Indian lands (the Indian Trade and Intercourse Act). Since the United States historically took no action against states for violations of the Act, the legal presumption arose that Maine Indians were not protected by this legislation and that the Federal Government had no responsibility towards them. By the mid-1830s, the Passamaquoddy had been deprived of almost all its aboriginal territory. Not until two hundred years after the Revolutionary War did the Federal Government acknowledge its obligation to the Passamaquoddy.

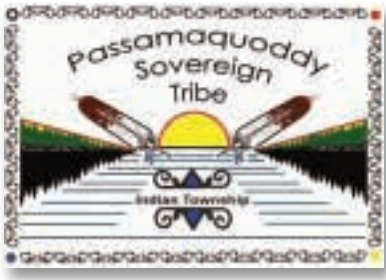
In 1975, a United States District Court ruled that the Non-Intercourse Act applied to Maine's two Tribal Nations, the Passamaquoddy and the Penobscot (*Passamaquoddy v. Morton*). This ruling established a trust relationship with the United States. The subsequent negotiated settlement of this case, culminating in passage by Congress of the Maine Indian Claims Settlement Act (PL 96-420) in 1980, marked a critical turning point in the history of the Passamaquoddy Tribe.

The land claim settlement, however, created a unique situation for the Passamaquoddy. By virtue of the Act and its accompanying state legislation (the Maine Implementing Act), the Tribal Nation has both the sovereign status of a federally recognized Tribal Nation and a unique status within Maine law.

The Passamaquoddy Joint Tribal Council has met the challenge to establish the basic governmental services, physical infrastructure (roads, sewer, water, housing, and schools), and human and social services the Tribal citizens need. The Passamaquoddy Tribe at Pleasant Point is federally recognized and has its own Tribal Constitution, which was adopted in 1990 and fully describes its sovereign powers. The Tribal Sakom and Vice-Sakom, along with six council members comprise the Pleasant Point Passamaquoddy Tribal Government and governing body.



Photo credit: Pleasant Point Facebook



# PASSAMAQUODDY TRIBE – INDIAN TOWNSHIP

## PESKOTOMUHKATI

### USET member since May 1979

#### Member Information

- Location: Washington County, Maine
- Land Size: ~140,000 acres
- Population: 1,629 Tribal Citizens
- Industries: Tourism, Recreation, Agriculture, Retail

The Passamaquoddy are known as the easternmost Tribal Nation in the United States. The Passamaquoddy are one of several Tribal Nations which formed the Wabanaki Confederacy. The ancestral home of the Passamaquoddy Tribe covered the entire St. Croix River watershed in Washington County, Maine and adjacent New Brunswick, Canada.

The Passamaquoddy were among the first Native Americans to have contact with Europeans. The wide bays along the Maine coast attracted the attention of fishermen and explorers searching for a sea route through the continent as early as the sixteenth century. The Passamaquoddy Tribe supported the Americans in the Revolutionary War based on promises and assurances endorsed by General George Washington. Once the war was won, however, these alliances were forgotten. Congress in 1790 passed legislation to curtail exploitation of Indian lands known frequently as the Non-intercourse Act. By the mid 1830s, the Passamaquoddy Tribe had

been deprived of almost all of its aboriginal territory. State appointed Indian Agents exercised total control over the dispensing of food, clothing, shelter, health care, and other necessities. For many generations, the Passamaquoddy people lived at a bare subsistence level. A state agent handled Indian affairs in accordance with the Indian laws in the state legal code, and state policy was predicated on the assumption that the Tribal Nations would gradually disintegrate as individuals left their lands. Tribal councils were not recognized, Tribal governors were rarely consulted, and Tribal decisions were thwarted. Additional land was lost as the state legislature reinterpreted treaties or granted long-term leases to non-Indians. Maine was the last state to grant reservation Indians the right to vote (1954).

In 1975, a United States District Court ruled that the Non-Intercourse Act was applicable to Maine's Passamaquoddy Tribe. The subsequent negotiated settlement of this case marked a critical turning point for the Passamaquoddy Tribe, enabling the Tribal Nation to buy land, develop Tribal businesses, employ Tribal citizens, and provide investment capital to non-Indians. The Passamaquoddy Tribe has also established the basic government services, physical infrastructure and health and social services to care for their citizens. At the same time, the Tribal Nation has struggled to address complex issues of Tribal rights and responsibilities arising from its legally imposed status as a Maine Indian Tribal Nation.

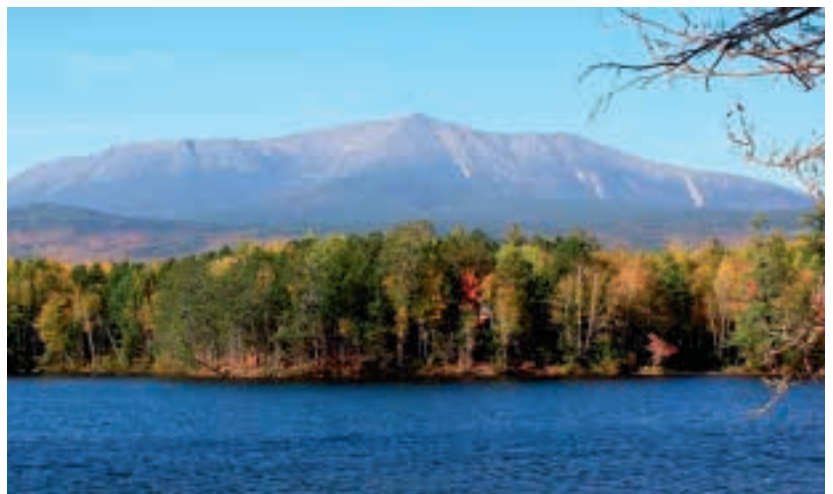


Photo credit: Donald Soctomah





# HOULTON BAND OF MALISEET INDIANS

## METAKSONIKEWIYIK

**USET member since May 1981**

### Member Information

- Location: Houlton and Littleton, County of Aroostook, Maine
- Land Size: ~1,343 acres
- Population: ~1,700 Tribal Citizens
- Industries: Tourism, Recreation, Agriculture, Retail

Before contact with Europeans, the Maliseets occupied much of what is now considered the eastern border line of the U.S. and Canada in northern New England. After the Jay Treaty in 1794, the Maliseets obtained free border crossing rights between the two countries because their villages spanned both countries.

The Houlton Band of Maliseets are part of the Wabanaki Confederacy, which had a comprehensive set of laws designed to insure the political and social cohesiveness of

the Wabanaki Tribal Nations. From 1790 through 1870 the Maliseets became more inactive, changing their mobile lifestyle, and stayed together in one place. They believed prior treaties made would protect them and their way of life. Encroaching settlers continued to disrupt their community, yet the Maliseets continued to live and govern their citizens in Maine throughout the early 20th century.

In the early 1970's, some Maliseet and citizens of other Tribal Nations not living on recognized Indian lands banded together to form the Association of Aroostook Indians, which eventually allowed them access to federal and state programs. The Houlton Band of Maliseet Indians has been federally recognized as a government by the United States of America since October of 1980. The governmental structure of the Houlton Band of Maliseet Indian consists of a six-member Tribal Council and the Tribal Nation is led by a chief, all of whom are elected by majority vote. Tribal Council is establishing a 501(c)(3) organization called the Maliseet Community Development

Authority. This non-profit organization helps to enhance the well-being of the Houlton Band of Maliseet Indians and its neighboring communities through initiatives in the following areas: Economic, Education, Culture, Social, Health & Wellness and Natural Resources. Currently, the Tribal Nation has farm and commercial land holdings in Aroostook County. Much of the land borders a significant amount of the Meduxnekeag River, a critical link in preserving Tribal practices, traditions and history.





# TUNICA-BILOXI TRIBE OF LOUISIANA

TAYORONIKU – HALYAYIHKU

**USET member since May 1984**

## Member Information

- Location: Marksville, LA in the Parish of Avoyelles
- Land Size: ~1,720 acres
- Population: 1,184 Tribal Citizens
- Main Industries: Tourism, Recreation, Hospitality, Gaming, Entertainment

The Tunica-Biloxi Tribe of Louisiana is one of four federally recognized Native American Tribal Nations in the state of Louisiana. They were the first people encountered by French colonizers Jean-Baptiste Le Moyne de Bienville and Pierre Le Moyne d'Iberville in 1669. After the Louisiana Purchase in 1803, the United States committed itself to a policy of protecting Indian land and rights, but, in reality, disregarded the smaller Louisiana Tribal Nations in order to appease discontent among former French and Spanish colonists. Once afforded respect and protection by Spain as a sovereign nation, the Tunica lost their land to French settlers who registered the land as "unoccupied" so that they could make fraudulent claims to it. John Sibley's 1806 report provided the United States government with questionable data, which dismissed most Louisiana Tribal Nations as insignificant remnants. As a result of the case of the 1844 *Moreau vs. Valentin, et. al*, the United States government had no involvement in the establishment of a reservation.

As early as 1922, Tribal Leader Eli Barbry started making inquiries to the Department of the Interior concerning ownership of their land. His pan-Tribal efforts to unify the Tunicas with "the Biloxi [Tribal Nation]" (meaning the Indian Creek settlement), the Jena Choctaw, along with the Coushatta of Allen Parish and the Chitimacha of St. Mary Parish were mostly successful. Notarized documents naming Barbry chief of these groups stated that the Tribal Nations were coming together "for the purpose of union of the people of our race, to promote our welfare and to secure for ourselves and our descendant's educational and religious training, to the end of our becoming better citizens of this American Nation..." All of these documents were signed by the various Tribal Nations except for the

Chitimacha, who refused to join the alliance and sought their own aid.

Allotment and forced assimilation continued to be hallmarks of United States Indian Policy until 1934 when President Roosevelt's new Commissioner of Indian Affairs, John Collier, began a comparatively enlightened "Indian New Deal." However, the government maintained their policy of disregard and neglect toward the Tunica-Biloxi. Other Indians faced the same problem as members of unrecognized bands or Tribal Nations were also excluded from the benefits of the Reorganization Act. Pressure from the Tunica-Biloxi and their political constituency in Congress motivated the Bureau of Indian Affairs to at least acknowledge the Tribal Nation's existence and to investigate their claims. Twentieth century documentation of the Tunica-Biloxi was finally updated by the government and provided the first step whereby federal recognition was eventually accomplished.

Since gaining federal recognition in 1981, the Tunica-Biloxi have developed municipal buildings including social and health services, police station, cultural and education center, gymnasium, and pow wow grounds amidst utility resources, paved roads and residential communities. The full motto on the Tunica-Biloxi flag, "Cherishing Our Past, Building For Our Future," both summarizes four-and-a-half centuries of Tribal history and highlights the Tribal Nations' lasting contributions to a keystone Native American belief: the reverence and preservation of ancestral remains.



Photo credit: Tunica-Biloxi Language and Culture Revitalization Program



# POARCH BAND OF CREEK INDIANS

## MVSKOKE

**USET member since May 1984**

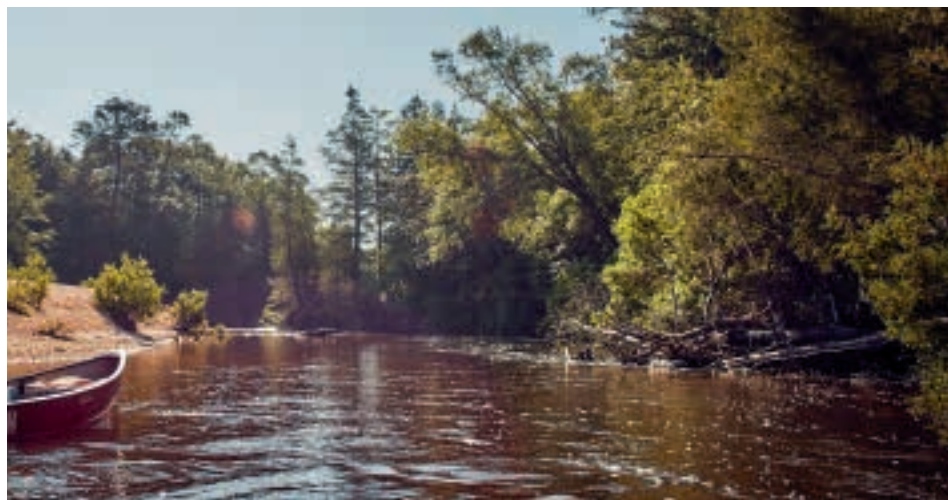
### Member Information

- Location: Poarch, Alabama
- Land Size: 400.756 acres Trust/Reservation land; ~8,000 acres fee land
- Population: ~3,095 Tribal Citizens
- Main Industries: Tourism, Recreation, Hospitality, Gaming, Manufacturing

Descendants of a segment of the original Creek Nation, which once covered almost all of Alabama and Georgia, the Poarch Band of Creek Indians were not removed from their Tribal lands and have lived together for almost 200 years in and around the reservation in Poarch, Alabama. The town of Poarch served as a focal point for the Indian community, and the Poarch Band remained cohesive and kept its identity throughout the years. In the years following the Indian Removal, Poarch Creek ancestors endured severe hardship and discrimination and struggled to provide for their families. Many of the original land grants were lost to swindlers and armed squatters. In some cases, land was sold under duress, the result of pressure and fear tactics, or abandoned out of the need to find work to survive. The turn of the 20th century saw the first truly organized efforts by the Poarch Creeks to improve social and economic conditions for the Tribal Nation and their citizens.

The Poarch Band of Creek Indians is the only federally recognized Tribal Nation in the state of Alabama, operating as a sovereign nation with their own system of government and bylaws. Leadership within the Poarch Creek Tribal Nation was not formalized until 1950, prior to this, leaders rose naturally from the community. The Tribal government consists of three branches: Legislative, Executive and Judicial. The Legislative Branch of Tribal government is governed by a nine-member Tribal Council elected by majority vote. The Executive Branch is responsible for overall management of daily Tribal government activities. The Judicial Branch consists of a full-time law enforcement staff and Tribal court system with a Supreme Court and Court of Appeals. On August 11, 1984, the U.S. formally acknowledged that the Poarch Creek Indians officially exist as an "Indian Tribe," the Tribal Nation obtained federal recognition on April 12, 1985.

Poarch Creek's determination to maintain both their identity and inherent right to self-govern is evident by their continued efforts to preserve their Tribal culture and improve their community. The Tribal Nation operates a variety of economic enterprises, which employ hundreds of area residents. The Poarch Band of Creek Indians is an active partner in the state of Alabama, contributing to economic, educational, social and cultural projects benefiting both Tribal members and residents of the local communities and neighboring towns.







# NARRAGANSETT INDIAN TRIBE

## NANAANONGSEUK

### USET member since May 1984

#### Member Information

- Location: Charlestown, Rhode Island, Washington County
- Land Size: 1,943.5 acres of Trust land; ~843 acres Tribally owned
- Population: 2,700 Tribal Citizens
- Main Industries: Tourism, Recreation, Natural Resources, Retail

The Narragansett Indians are the descendants of the aboriginal people of the region now known as Rhode Island. Archaeological evidence and the oral history of the Narragansett People establish their existence in this region more than 30,000 years ago. The first documented contact with the people of this region took place in 1524 and they were described as a large Indian population, living by agriculture and hunting, and organized under powerful "kings."

The Tribal Nation and its members were considered warriors within the region. The Narragansett customarily offered protection to smaller Tribal Nations in the area. In 1675, the Narragansett allied themselves with King Philip and the Wampanoag Sachem, to support the Wampanoag Tribal Nation's efforts to reclaim land in Massachusetts. In the Great Swamp Massacre, a military force of Puritans massacred a group of Narragansett, mostly women, children, and elderly men living at an Indian winter camp in the Great Swamp. Following the massacre, many of the remaining Narragansett retreated

deep into the forest and swamp lands (much of this area now makes up today's land base). By the end of the 18th century, the Tribal Nation's land base had been reduced to 15,000 acres. Additionally, around 1884 the State of Rhode Island unilaterally and illegally "detrified" the Narragansett without federal sanction. Many years later in December 1934, the Narragansett Tribe of Indians was incorporated, and the traditional government comprised of Chief Sachems, Medicine Men and Women, the Tribal Council, Sub-Chiefs, Tribal Prophets, the War Chief, and Clan Mothers persevered.

In 1975, the Tribal Nation filed a land claim suit against the state and several landowners for the return of approximately 3,200 acres of undeveloped lands. The suit was eventually concluded in an out-of-court settlement in 1978. Since April 1983, the sovereign Nation of the Narragansett Indian Tribe, has been a Federally Recognized Tribal Nation of the Federal Government. The mission of the Tribal Nation is to continue to promote and develop awareness among Tribal citizens the importance of education, culture, and family life within their own Tribal community. The Tribal Nation has greatly expanded its administrative capability. Policies and procedures have been implemented to protect and preserve its land, water and cultural resources to promote the welfare of Tribal citizens. The education, family circle, traditional ceremonies, and Narragansett language are important aspects of the Narragansett Indian Tribe's culture and daily lives. The Narragansett People have seen many changes in their lands; however, their traditional culture has been passed down from generation to generation and is even stronger today.





# MASHANTUCKET PEQUOT TRIBAL NATION

## PEQUOT

### USET member since May 1984

#### Member Information

- Location: Mashantucket, Connecticut
- Land Size: 1,651 acres
- Population: ~911 Tribal Citizens
- Main industries: Tourism, Recreation, Hospitality, Gaming, Services

Native peoples have continuously occupied Mashantucket in Southeastern Connecticut for over 10,000 years. The Mashantucket Pequots are a native Algonquin people who endured centuries of conflict. By the early 17th century, just prior to European contact, the Pequots had approximately 8,000 citizens and inhabited 250 square miles. However, the Pequot War (1636-1638) -- the first major conflict between colonists and an indigenous New England people -- had a devastating impact on the Tribal Nation. When the Pequot War formally ended, many Tribal citizens had been killed and others placed in slavery or under the control of other Tribal Nations. Those placed under the rule of the Mohegans eventually became known as the Mashantucket (Western) Pequots and were given land at Noank in 1651. In 1666, the land at Noank was taken from the Tribal Nation, and it was given back property at Mashantucket. In the ensuing decades, the Pequots battled to keep their land, while at the same time losing Tribal citizens to outside forces.

In the early 1970s, Tribal citizens began moving back to the Mashantucket land. By the mid-1970s, Tribal citizens had embarked on a series of economic ventures, in addition to instituting legal action to recover illegally seized land. With the assistance of the Native American Rights Fund and the Indian Rights Association, the Tribal Nation filed suit in 1976 against neighboring landowners to recover land that had been sold by the State of Connecticut in 1856. Seven years later the Pequots reached a settlement with the landowners, who agreed that the 1856 sale was illegal, and who joined the Tribal Nation in seeking the state government's

support. The state responded, and the Connecticut Legislature unanimously passed legislation to petition the federal government to grant Tribal recognition to the Mashantucket Pequots and settle the claim. With help from the Connecticut delegation, the Mashantucket Pequot Indian Land Claims Settlement Act was enacted by the U.S. Congress and signed by President Reagan on Oct. 18, 1983. It granted the Tribal Nation federal recognition, enabling it to repurchase and place in trust the land covered in the Settlement Act. Pequot history is an unprecedented story of survival, redemption and restoration.

The Mashantucket Pequot Tribal Nation is a sovereign nation with a unique government-to-government relationship with the federal government as well as Connecticut. Tribal citizens are governed by an elected Tribal Chairman, Vice Chairman, Secretary, Treasurer and Tribal Councilors who work together to build and preserve a cultural, social, and economic foundation that can never be undermined or destroyed. The Tribal Nation owns and operates a variety of enterprises. The Mashantucket Pequot Tribal Nation is one of Connecticut's highest tax payers and largest employers, as well as providing generous assistance to nonprofit organizations that support local communities.





# WAMPANOAG TRIBE OF GAY HEAD

## AQUINNAH

### USET member since November 1987

#### Member Information

- Location: Aquinnah, MA
- Land Size: ~485 acres of trust land
- Population: 1,364 Tribal Citizens
- Industries: Tourism, Recreation, Agriculture

The Aquinnah Tribal Nation's ancestral lands have always been on the southwestern end of Noepe (Martha's Vineyard). In 1870, the Town of Gay Head was incorporated. From the Wampanoag point of view, the principal effect of the incorporation of Gay Head was the alienation of Wampanoag Indian District Lands (Tribal land base), which was in violation of the Federal Non-Intercourse Act of 1790. In 1972, however, in response to the growing potentiality for encroachment on Tribal Common Lands, the Wampanoag Tribal Council of Gay Head, Inc. (WTCGH) was formed.

Aquinnah Wampanoag Tribal citizens continued to be very active in town government, with the three town-elected selectmen positions filled by Tribal citizens. In 1987, after two petitions and lengthy documentation, the Tribal Nation obtained federal acknowledgement by an act of the U.S. Congress, creating a government-to-government relationship with the U.S. federal government.

The Wampanoag Tribe of Gay Head (Aquinnah) and the Town of Gay Head entered into agreement in June of 1995 to jointly provide for the health, safety and welfare of persons on Tribal lands by providing for the use of police, fire, and medical personnel and resources in the event of disaster, disorder, fire or other emergencies arising on Tribal lands. In 1998, the name of the town was officially

changed from Gay Head back to its former Wampanoag name of Aquinnah by the state legislature, representing recognition of Wampanoag history in the region.

The Wampanoag Tribe of Gay Head Aquinnah is governed by a Tribal Council, consisting of a Chairperson, Vice Chairperson, Secretary, Treasurer, and seven Council members, all popularly elected. The Chief and Medicine Man are traditional members of the Tribal Council and hold their positions for life.

The Tribal Nation continues to be self-governing and takes great strides toward economic self-sufficiency. Community values are still strong with land and resource management strategies relying on sustainable practices which are shared with other towns and conservation groups on the island. Traditional arts like beadwork, basket making, and pottery continue to be taught. Celebrations like Cranberry Day and The Legends of Moshup Pageant are held annually. The Wampanoag language is taught to Tribal citizens.







# ALABAMA-COUSHATTA TRIBE OF TEXAS

ALIBAMU & KOASATI

**USET member since February 1989**

## Member Information

- Location: 17 miles east of Livingston in Polk County, Texas
- Land Size: 10,200 acres
- Population: ~1,200 Tribal Citizens
- Industries: Tourism, Recreation, Hospitality, Transportation

The Alabama-Coushatta Tribe of Texas has the oldest reservation in Texas, located in the Big Thicket of deep east Texas. The Alabama and Coushatta Tribal Nations lived in adjacent areas in what is now the state of Alabama prior to their westward migration that began around 1763. Around 1780, the Alabama and Coushatta Tribal Nations migrated across the Sabine River into Spanish controlled territory of what is now Texas. Although they were two separate Tribal Nations, the Alabamas and Coushattas have been closely associated

throughout their history. Their cultures have some differences, but are for the most part nearly identical. The two separate Tribal Nations eventually became one. For their assistance to Sam Houston's army in 1836 during the Texas War of Independence from Mexico, in 1839 the Republic of Texas recognized the Tribal Nations' equitable claim to lands.

They were federally recognized in 1928 and terminated in 1954, however their trust responsibility was transferred to the State of Texas. After Congress passed the Restoration Act in 1987, the Alabama-Coushatta Tribe of Texas was restored and again federally recognized.

The Tribal Nation is a fully functioning sovereign government with a full array of health and human services, including law enforcement and emergency services. The Tribal Nation is ruled by both a Principal Chief and a Second Chief who are elected by the people and serve lifetime terms.





# ONEIDA INDIAN NATION

## ONYOTA'A:KÁ:

**USET member since February 1991**

### Member Information

- Location: Central New York State
- Land Size: ~18,000 acres
- Population: ~1,000 Tribal Citizens
- Industries: Tourism, Recreation, Hospitality, Gaming, Retail, Services

The word "Oneida" means "People of the Standing Stone." One of the founding members of the Haudenosaunee Confederacy, the Oneida Indian Nation became the first ally to America when they joined the colonists in their fight for independence during the American Revolutionary War. In 1794, after the victory over the British and many hardships for the Oneidas, George Washington signed the Treaty of Canandaigua recognizing the Oneida Nation as a sovereign entity. Oneida Indian Nation homelands originally consisted of

more than six million acres stretching from the Saint Lawrence River to the Susquehanna River. By the early 1900s, illegal state treaties nearly depleted the Oneida Indian Nation of its homeland. The Oneidas did what they had to do to survive. Some moved, some sold their land. The Oneidas had to fight to recover the last 32 acres

granted to them. The federal government filed suit in U.S. District Court in 1919 to help the Oneida Indian Nation reclaim this land.

The Oneida Indian Nation is headed by a federally recognized Representative – Tribal Nation citizens belong to one of three family clans: Turtle, Wolf or Bear. Each clan chooses representatives to the governing body, the Nation Council. Oneidas are a matrilineal society. According to tradition, male Council Members are responsible for daily decisions while Clan Mothers make long-term decisions. Tradition also requires Nation leaders and citizens to consider the impact on the next seven generations when making decisions.



Today, the Oneida Indian Nation has regained more than 18,000 acres of their original homelands – the most they have had recognized sovereignty over since 1824. A slow steady climb and dedicated perseverance has led to a resurgence for the Oneida Indian Nation that today prospers through their

many diverse enterprises. Like any government, Oneida Indian Nation provides many programs and services to its Citizens as well as reinvests in their enterprises and community. The Tribal Nation is one of the largest employers in New York state.





# AROOSTOOK BAND OF MICMACS

## MIKMAQ NATION

**USET member since February 1992**

### Member Information

- Location: Northern Maine
- Land Size: ~2,674 acres
- Population: ~1,240 Tribal Citizens
- Main Industries: Tourism, Recreation, Agriculture, Services

From time immemorial, the Micmacs have occupied the lands south and east of the Gulf of Saint Lawrence, the Maritime Provinces and other regions along the Atlantic Seaboard of Northeastern America. The Micmac Nation, today, is composed of seven districts with 29 bands and a population of approximately 30,000.

The Micmac language is an Algonquin one, related to that of the Micmacs' southern neighbors, the Maliseets, Passamaquoddy, Penobscot and Abenaki. All these northeastern Tribal Nations are culturally and linguistically related. Collectively, this group is called the "Wabanaki", which means "People of the Daybreak", or "Dawn land People" (wabun meaning "light" or "white", aki meaning "earth").

On November 26, 1991 after complex legal maneuvering and political advocacy, the Aroostook Band of Micmacs finally achieved federal recognition with the passage of the Aroostook Band of Micmacs Settlement Act. This act provided the Community with acknowledgment of its Tribal status in the United States. The Aroostook Band of Micmacs have succeeded in rejuvenating a part of the Micmac Nation. The Micmacs changed their name from Aroostook Micmac Indians to the Aroostook Band of Micmacs. The sovereign government of the Tribal Nation provides many services to their citizens including health, housing, social services, and many others. Tribal citizens are governed by an elected Chief, Vice Chief, Secretary, Treasurer and Tribal Councilors.

Like other Tribal Nations of Maine, the Micmac continue to produce a variety of traditional baskets made of splint ash wood, birch bark and split cedar. The Micmac are recognized as excellent producers of porcupine quill on birch bark boxes and wooden flowers of strips of maple, cedar and white birch.





# CATAWBA INDIAN NATION

## YE ISWAH H'REH

**USET member since December 1993**

### Member Information

- Location: Catawba River at the border of North Carolina, near the city of Rock Hill, South Carolina
- Land Size: ~1,000 acres
- Population: ~2,763 Tribal Citizens
- Industries: Tourism, Services, Media

The Catawba Indians have lived on their ancestral lands along the Catawba River dating back at least 6,000 years. They are the only federally recognized Tribal Nation in South Carolina. Before contact with the Europeans it is believed that the Nation inhabited most of the Piedmont area of South Carolina, North Carolina and parts of Virginia. The Tribal people called themselves yeh-is-WAH-h'reh, meaning "people of the river."

Catawba warriors were known as the fiercest in the land. Leaders of the state of South Carolina kept relations with the Nation friendly. The Nation's friendship with the English helped both sides. The colonists received protection and the Nation received supplies that aided in their survival. During the Revolutionary War, the Catawba aligned with the patriots and fought with them against England to help them gain their independence. In 1763, the Catawbas received title to 144,000 acres from the King of England. It was hard for the Nation to protect the land from colonists and eventually they began renting land to settlers. Eventually the settlers who had leased land from the Nation wanted the land for themselves. They put pressure on South Carolina to negotiate with the Nation. This was during

the Removal Period when many Tribal Nations were being moved west. In order to avoid this, the Nation and South Carolina negotiated the Treaty at Nations Ford.

During the Franklin Roosevelt administration the federal government tried to improve conditions for Tribal Nations. Under the Indian Reorganization Act, the Catawba Nation created a constitution in 1944 to help them govern themselves. In 1959 the Catawba Nation was terminated in the eyes of the federal government. After some time, the Nation determined that they preferred to be seen as a community and decided to fight another battle...that to regain federal recognition.

In 1973, the Catawbas filed their petition with Congress for federal recognition. They also updated and adopted their constitution in 1975. The Catawbas had a strong argument in this fight. The Treaty at Nations Ford with South Carolina was illegal because it was not ratified by the federal government. The federal government should have protected the rights of the Nation. It took 20 years, but on November 20, 1993, the land claim settlement with the state of South Carolina and the federal government finally came to an end and the Catawba Indian Nation received federal recognition.



Tribal citizens are governed by an Executive Committee consisting of a Chief, an Assistant Chief, a Secretary-Treasurer, and five Council Members. Tribal government programs include Social Services, Education, Health, Housing, Engineering, Natural Resources, Cultural, and Economic Development.



# JENA BAND OF CHOCTAW INDIANS

## CHAHTA (JENA)

**USET member since December 1995**

### Member Information

- Location: Jena, Louisiana
- Land Size: 63 acres in trust and 340 acres in fee simple
- Population: 366 Tribal Citizens
- Industries: Tourism, Recreation, Hospitality, Gaming

The earliest recorded notice of the Choctaw Indians is believed to be about 1540, in the area of southern Mississippi and in the early 1700s near present-day Mobile, AL, Biloxi, MS, and New Orleans, LA. Inland from these settlements there was a large Tribal Nation of Muskogean speaking people occupying about 60 towns on the streams that formed the headwaters of the Pascagoula and Pearl Rivers.

After the relinquishment of the Louisiana Colony by France, members of the Tribal Nation began to move across the Mississippi River. By the Treaty of Dancing Rabbit Creek in September of 1830 the main body of the Choctaw ceded all their land east of the Mississippi River. The Choctaw began to migrate even further away from their original territory. One band settled in a sizable village near present-day Enterprise, LA and other groups migrated to the pine covered hills of what was then Catahoula Parish in LA. Eventually the Choctaw, located

between present day Monroe and Natchitoches, LA, joined the group in Catahoula Parish. Principle settlements were established on Trout Creek in LaSalle Parish and Bear Creek in Grant Parish.

In 1910 it was reported that there were only 40 Choctaws located in LaSalle and Catahoula Parishes. The Tribal community had very little to do with outsiders and continued their customs and ways. The local store account books showed that the Indians paid for their goods by skinning and tanning hides as well as day laborers and household help. The Choctaw community maintained a very distinct, social institution with activities that included marriages, burials, and the maintenance of a Tribal cemetery.

The last traditional Chief died in 1968 and in 1974 the first Tribal election of Tribal Chief was held. The Jena Band of Choctaw Indians of Louisiana was incorporated as a state-recognized Tribal Nation on April 20, 1974, with a five-member board of trustees. The Tribal constitution was adopted December 20, 1990, changing the structure of the governing body to a four-member Tribal Council. The Tribal Nation became a federally recognized Tribal Nation on August 29, 1995.

As a sovereign government, the Tribal Nation strives to improve the well-being of its Tribal citizens and those of future generations. Presently the Tribal Nation provides services to their citizens through their Health Department, Social Services, Cultural Programs, Domestic Violence Programs, Tribal Families in Need of Services Program, Environmental Protection Department, Children's Annual Summer Camp, Homeland Security Department and numerous other family related activities.



Photo credit: Bobby Fields







# THE MOHEGAN TRIBE OF CONNECTICUT

## MOHIKS

**USET member since February 1996**

### Member Information

- Location: Uncasville, Connecticut
- Land Size: ~500 acres
- Population: 1,936 Tribal Citizens
- Industries: Tourism, Recreation, Hospitality, Gaming, Retail, Services

The Mohegan are the Wolf People, children of Mundo, a part of the Tree of Life, ancestors form roots, the living Tribal Nation is the trunk, grandchildren are the buds of the future. Before the arrival of the Europeans, Chief Sachem Uncas brought his people to Shantok and the hills of Mohegan. Uncas believed that cooperation with the English arrivals would ensure his people's survival, and therefore, developed a historic interaction between his Tribal Nation and the settlers.

Just two years after forming the Connecticut Colony, the English formally recognized the sovereignty of the Mohegan Tribal Nation with the Treaty of Hartford in 1638, a recognition that has been maintained through the present day. For over 350 years, treaties and laws have highlighted the Tribal Nation's independent status. At the federal level, the unique rights of Native American

Tribal Nations were further recognized and laid out in the Constitution of the United States.

In 1978, the Mohegans filed for federal recognition. After an intensive review of over 20,000 pages of paperwork documenting the Tribal Nation's history, the federal government formally recognized the Mohegan Nation on March 7, 1994, marking the end of a long battle for federal recognition as a sovereign nation. As a sovereign nation, the Mohegan Tribe of Connecticut independently determines its own fate and governs its own people and affairs, as well as having access to federal programs and federal protection for Tribal lands, including graves. This all means they have the responsibility to provide for their Tribal citizens and to work within their own governmental, legal and cultural systems to preserve their independence. The Mohegan Nation's Tribal Constitution provides that the Tribal Nation shall be governed by a Tribal Council, consisting of nine Tribal citizens, and a Council of Elders, consisting of seven Tribal citizens. All legislative and executive powers of the Tribal Nation not granted to the Council of Elders are vested with the Tribal Council. The Council of Elders oversees judicial matters and the Tribal Nation's cultural integrity. The Council of Elders also exercises legislative powers with respect to Tribal citizenship and enrollment.





## CAYUGA NATION

### GAYOGOHO:NO'

#### USET member since June 2000

##### Member Information

- Location: Seneca Falls, New York, Seneca County
- Land Size: ~64,000 acres of land (2018 Tribal Source: 824 acres)
- Population: ~500 Tribal Citizens
- Industries: Agriculture, Retail, Tourism, Recreation

The Cayuga Nation is known as “The People of the Great Swamp”. The citizens of the Cayuga Nation have called the land surrounding Cayuga Lake their homeland for hundreds of years. Cayuga land lays between that of the Seneca Nation to the west and the Onondaga Nation to the east. In the 12th century, the Cayuga Nation, along with the Seneca, Onondaga, Oneida and Mohawk Nations united under the Great Law of Peace to form the Haudenosaunee (The People of the Longhouse) Confederacy in order to end inter-tribal fighting and bring a sustainable peace to the land. This structure of government and its constitution influenced the creation of many modern-day constitutions.

Following the Revolutionary War, in 1779, General George Washington commissioned General John Sullivan and James Clinton to destroy the Cayugas and other members of the Haudenosaunee. There was no complete victory over the Haudenosaunee. Although many Tribal citizens and bands of each Tribal Nation were scattered (to Ohio, Canada and Buffalo Creek) because of this campaign, there remained a few to negotiate a Treaty with General Washington. Cayugas that relocated to Ohio were later moved to a territory now called Oklahoma. Cayugas that relocated to Canada now reside on the Grand River Reservation at Six Nations. The Cayugas that remained, negotiated with the first president of the United States of America. The Treaty of Canandaigua was signed on November 11th, 1794 between the Sachems of the Confederacy Nations and the United States of America. This Treaty established peace between the United States and the Six Nations of the Haudenosaunee, but it also provided for the sovereignty for each Haudenosaunee Nation within its lands, affirming the Cayuga Nation’s rightful land base as 64,000 acres of sovereign land. It established explicit

federal powers of the United States over the state of New York. It grandfathered previous treaties made between the state of New York and Haudenosaunee Nations, but also established jurisdiction over the state of New York as it pertained to Indian Affairs and Indian transactions.

This treaty remains in full force today. Unfortunately, the Treaty was ignored by New York. The Cayuga homeland was not returned to its owners. Over a series of illegal land transactions and treaties, New York State took all the lands of the Cayuga Nation. In accordance with the Treaty of Canandaigua and the Constitution of the United States of America, the State of New York neglected to seek federal approval for these land transactions and claimed powers of the state in Indian Affairs, for which they have none. As a result, the State of New York still claims that the Cayuga Nation has no reservation and will not permit the Cayuga Nation free use and enjoyment of a Treaty established land base. The Cayuga Nation continues to fight for its Treaty Rights today and will continue to seek to have these rights upheld by the State of New York and the United States of America.

The Tribal Nation and its citizens are governed by the traditional Council of Chiefs and Clan Mothers. As a sovereign Tribal Nation, the Cayugas own several business ventures and provide many services to their citizens including police, housing, and financial assistance for scholarships.







# MASHPEE WAMPANOAG TRIBE

## MÂSEEPÊE WÔPANÂAK

### USET member since October 2007

#### Member Information

- Location: Mashpee, Massachusetts
- Land Size: ~5,000 acres
- Population: ~2,600 Tribal Citizens
- Industries: Tourism, Recreation, Agriculture

The Mashpee Wampanoag Tribe, also known as the People of the First Light, has inhabited present day Massachusetts and Eastern Rhode Island for more than 12,000 years. They are among the most enduring indigenous Tribal Nations on Turtle Island.

The Mashpee Wampanoag are one of three surviving Tribal Nations of the original 69 in the Wampanoag Nation. Their history is one of survival and perseverance. During King Philip's War in 1675, over forty percent of the Wampanoag Tribal population was killed and large number of healthy males were sold off as slaves. Almost 50 years later, the Plymouth Colony instituted a proprietary system of land control in Mashpee, with Tribal citizens known as the collective owners of the land, or proprietors. In 1746, Plymouth Colony appointed three guardians over Mashpee Tribal Nation to limit the Tribal Nation's independence. In answer to this, the Tribal Nation dispatched delegates to meet with the King of England in 1760, where they repeated their complaints so that the King ordered changes in governance and for several years Plymouth Colony complied with the King acknowledging Mashpee as a self-governing Indian district.

Years passed and in 1834 Mashpee Wampanoag Tribal Nation protested the authority of non-Indian overseers causing the Massachusetts Legislature to revoke their authority, acknowledging Mashpee as a completely self-governing Indian district. In 1870 the remaining 3,000 - 5,000 acres of land that were in Tribal ownership, were illegally taken by the Massachusetts

government and the town of Mashpee was created, although the federal government did not approve this transaction as required by the 1790 Trade and Intercourse Act. The Mashpee Wampanoag Tribal Nation has maintained a continuous title to and possession of key tracts of land within the historic Mashpee land base and in 1972 the Mashpee Wampanoag Tribal Council was established, providing further leadership, an umbrella for historic and cultural preservation, and advocacy for land recovery. After an arduous process lasting more than three decades, the Mashpee Wampanoag were re-acknowledged as a federally recognized Tribal Nation in 2007.

The Mashpee Wampanoag Tribe exercise its full Tribal sovereignty rights and offers Tribal citizens Education Services, Emergency Management, Health and Human Services, Historic Preservation, Homeland Security, Housing, Natural Resources and many other departments and services. Tribal citizens are governed by an elected Chairman, Vice Chair, Secretary, Treasurer, and a Tribal Council, as well as a Chief and Medicine Man.





# SHINNECOCK INDIAN NATION

## USET member since February 2011

### Member Information

- Location: "South Fork" of "East End" of Long Island, New York, Suffolk County
- Land Size: ~1,200 acres
- Population: ~1,495 Tribal Citizens
- Industries: Tourism, Recreation, Retail, Agriculture, Services

The Shinnecock Indian Nation is a federally recognized sovereign Tribal Nation. Shinnecock time has been measured in moons and seasons, and the daily lives of Shinnecock people revolved around the land and the waters surrounding it. Their earliest history was oral, passed down by word of mouth from generation to generation. An Algonquian-speaking people descended from the Native Americans in southern New England have lived along the shores of Eastern Long Island since time immemorial.

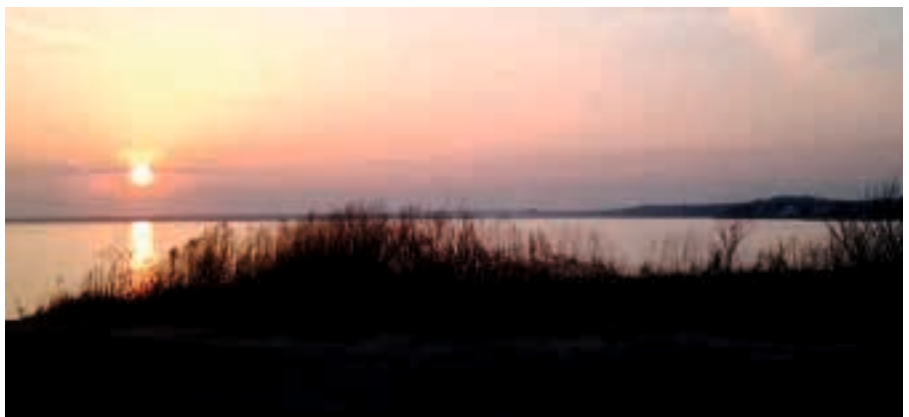
In the 1700's the Tribal Nation was known for their fine beads and wampum. By 1859, the current borders of 800 acres of Tribal land were established. In 1972 the Shinnecock Native American Cultural Coalition (SNACC) was formed to establish a Native American arts and crafts program. Traditional dancing, beadwork, Native American crafts, and music are studied there. The Cultural Enrichment Program is a sharing and learning process that the community has engaged in to ensure that the ideals and traditions of their ancestors are passed down through the generations. It involves sharing knowledge of food, clothing, arts, crafts, dance, ceremonies, and language.

On October 1, 2010, the Shinnecock Indian Nation became the 556th federally recognized Tribal Nation in the U.S. Tribal citizens are governed by a Chairman, Vice

Chair, Secretary Treasurer and Tribal Council. In addition to the Shinnecock Presbyterian Church, Shinnecock Indian Nation infrastructure includes a Tribal Community Center, a Health and Dental center, a Museum, Family Preservation and Education Center, Cultural Center, Playground and Shellfish Hatchery. Every Labor Day Weekend since 1946, the Shinnecock host a powwow, based on ceremonies beginning in 1912. The Shinnecock Powwow is ranked by USA Today as one of the top ten great powwows held in the United States.



Photo credit: Jeremy Dennis





# PAMUNKEY INDIAN TRIBE

## PAMUNKEY

### USET member since October 2017

#### Member Information

- Location: King William, VA
- Land Size: ~1,200 acres
- Population: ~200 Tribal Citizens
- Industries: Tourism, Recreation, Agriculture

The Pamunkey are part of the larger Algonquian-speaking language family composed of a number of Tribal Nations who spoke variations of the same language, a language now mostly lost. By 1607, more than 30 Tribal Nations were tributaries of the Algonquian Powhatan Confederacy, of which the Pamunkey were the largest and one of the most powerful.

The Pamunkey Indians depended on fishing, hunting, trapping and gardening for hundreds of years for subsistence. One of the main staples of their diet for the past one hundred and fifty years has been fish, specifically shad and herring. The Pamunkeys also bartered these fish, making them an integral part of their economy. One of the most recognized Tribal Leaders of the Pamunkey Powhatan people is Wahunsenacawh (around 1550-1618),

the powerful paramount chief, known to the English as 'Chief Powhatan' and the father of Matoaka (Pocahontas). In the late 19th century, the Pamunkey people fought against Jim Crow laws and attempts to take its land base by actively portraying themselves as Native Americans and descendants of the Tribal Nation of Powhatan and Pocahontas. Chief Cook, a great leader of the Pamunkey, fought to protect Virginia Native Americans as Jim Crow laws were being adopted in Virginia. He ultimately lost the fight against Virginia's Racial Integrity Act of 1924.

The Pamunkey Indian Tribe has been recognized by the Commonwealth of Virginia since the 17th century. In 1983, while granting recognition to several other Tribal Nations, Virginia again acknowledged the Pamunkey Indian Tribe's status. In 2015, the federal government officially recognized the Tribal Nation.

The Tribal Nation has a land base on the Pamunkey River in King William County and is one of the nation's oldest, dating back to 1646. Tribal citizens are governed by an elected Chief, Assistant Chief and Tribal Councilors. The Pamunkey Tribal government works in procurement, human resources, record keeping and billing, physical distribution of notices, and citizenship.





*“Every generation in Indian Country is provided with ancestral strength, knowledge, and values that serve as the foundation to maintaining and protecting our culture, our identity, and our rightful place in these lands. They have been the foundation to our amazing story of survival and perseverance... an amazing story that does not get told enough.”*

*—Chief Kirk Francis, Penobscot Indian Nation*



# **TRIBAL NATION– UNITED STATES DIPLOMATIC RELATIONS**



## A HISTORICAL TO PRESENT DAY SYNOPSIS

**T**he history of the relationship between Tribal Nations and the United States is complicated, shameful, and rarely told truthfully. Woven throughout is a tension between the United States' recognition of our inherent sovereignty and its simultaneous insistence on controlling or limiting our exercise of that sovereignty. Additionally, woven throughout and beginning with first contact is an effort to dispossess Tribal Nations of vast tracts of land and natural resources, in part by efforts to assimilate us and terminate our rights and our existence within our own lands.

Tribal Nations are sovereign governments that exist within the borders of the United States. Our governments existed before the formation of the United States and continue to exist today. We are the rightful stewards of these lands and our creation stories, our traditions, our cultures, our language, and our understanding of the world, humanity, and all life forms are intricately tied to these lands. Tribal Nations possess inherent sovereignty—which means we have autonomous, independent government authority apart from any recognition of such authority by other entities. This sovereign authority includes jurisdiction over our people and lands, form of government, and administration of justice, and ultimately our right to make decisions that are best for our citizenship now and into the future.

In its early formative years, before the United States evolved into the strong and wealthy global power that it is today, the United States, including the period prior to its formation, sought to establish and maintain strong relations with Tribal Nations. As a reflection of this approach, the United States, in accordance with our sovereign government status, often took action within our lands only after securing our consent through nation-to-nation diplomacy, including through treaty-making. The Second Continental Congress, in adopting the Northwest Ordinance, pledged that our lands and property would not be taken from us without our consent and that our property and rights would not be disturbed. These diplomatic relationships and the understanding that consent was required for U.S. action were a recognition by the United States of Tribal Nations as sovereign political entities.

When the United States adopted its Constitution, it included provisions specifically directed at Tribal Nations and Native people, recognizing our unique status and

giving the federal government power to take actions on our behalf. Soon after, the Supreme Court issued three opinions—called the Marshall Trilogy—that formally articulated the recognition of Tribal Nations' inherent sovereignty while also citing the doctrine of discovery as placing limitations on that sovereign status. The doctrine of discovery is rooted in a self-serving document issued by the Pope in 1493 that said any land not inhabited by Christians was available to be "discovered" and therefore taken into possession, and that the land's inhabitants should be Christianized. Judicial decisions, congressional statutes, and other federal actions have continued to shape the parameters of the relationship between the United States and Tribal Nations over time.

But the understanding that Tribal Nations possess inherent sovereignty, as reflected in the U.S. Constitution, Supreme Court decisions, and numerous laws, did not and still does not compel the United States to fully respect our rights and authorities. In the founding and expansion of the United States, acts of genocide were committed against our ancestors to allow others to pursue life, liberty, and happiness in our stolen homelands, while simultaneously depriving us of those same rights and liberties. The United States, and colonizers before it, rationalized its behavior and approach by utilizing the doctrine of discovery. The doctrine of discovery planted the rotten seed that, although Tribal Nations have inherent sovereignty, the United States need not treat us as full sovereigns because Native people are less human than our colonial counterparts. It also paved the way morally for the physical acts of genocide and the taking of lands committed in the name of colonial expansion.

Tribal Nations ceded millions of acres of land and natural resources to the United States, often involuntarily or out of necessity to prevent the killing of our people who sought only to protect their families, their homelands, and their way of life. These ceded lands and natural resources are a source of and the very foundation of the wealth and power that the United States, and its citizens, enjoys to this day. In exchange, the United States made promises that exist in perpetuity to ensure Native people's health, overall well-being, and prosperity. This exchange is the basis for the general trust obligation to Native people.

Unfortunately, as the United States became more powerful, as maintaining strong relations with Tribal Nations became less necessary, and as greed took



over, the United States quickly moved away from an approach based on Tribal Nations as inherent sovereigns from which it must obtain consent. Instead, to justify and facilitate its continued theft, it began to view Tribal Nations as subsumed under the United States' powers and subject to its whims—using terms such as “domestic dependent nations” and “wards” to describe us and referring to its “plenary power” over us. Eventually, the United States progressively moved away from the concept of “rights-ceded” by Tribal Nations to viewing Tribal Nations as possessing only “rights-granted” by the United States. Over time, the United States has woven these concepts into its legal jurisprudence to create a narrative and understanding based upon legal fiction to justify its actions.

U.S. policy regarding Tribal Nations and Native people continues to evolve. For much of the U.S.'s existence, however, it took drastic measures to undermine Tribal Nations' governance and assimilate Native people, thereby attempting to terminate Tribal Nations and the trust obligations we are owed. The United States took our homelands and placed us on reservations, often in remote areas with little or no resources or economies, prohibited exercise of our cultural practices, kidnapped our children, and took action to limit the exercise of our inherent sovereign rights and authorities. These assimilation and termination policies, and the acts of cultural genocide committed in furtherance of them, were a failure by all accounts—as Tribal Nations fought hard to maintain our cultural existence and have not gone away. And yet, ultimately, U.S. policy toward Tribal Nations remains to this day, at its core, based on two flawed assumptions: (1) that Tribal Nations are incompetent to handle our own affairs, and (2) that our Nations would eventually assimilate out of existence.

The United States' actions towards Tribal Nations and Native people are designed to make our continued existence invisible to mainstream society, since acknowledging our contemporary existence would involve coming to terms with our complicated history together. Instead, the United States seeks to instill in its people a revisionist, incomplete, and often fictional historical understanding that is intended to conceal the truth. Our ongoing existence as sovereign nations is unknown to most, the truth about our long, complex, and complicated nation-to-nation relationship goes untold, and our existence is too often stereotyped, romanticized, and minimalized to a mere historical footnote.

For the past 50 years, and in response to the American Indian Movement and other Tribally-driven efforts, the United States has begun to take a different approach to its relationship with Tribal Nations, instead seeking to facilitate Tribal Nations' self-determination and self-governance. For example, Congress enacted the Self-

Determination and Educational Assistance Act, which authorized Tribal Nations to contract with the federal government for funding to provide services otherwise provided by the federal government. And multiple presidential executive orders have been issued calling on federal agencies, in recognition of our inherent rights and authorities, to consult with Tribal Nations when it comes to federal decisions that impact our people and our homelands. In addition, while the United States was unfortunately the last government to endorse the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2010, declaring it to be aspirational and not binding, its endorsement still offers a foundation which we can further build upon.

However, despite some notable gains over this period, the United States is still far from a reality where it is fulfilling its trust and treaty obligations to Tribal Nations, fully respecting our inherent sovereign rights and authorities, and properly acknowledging and honoring our indigenous existence within these lands. The United States continues to issue federal Indian policy based upon a false premise that contributes, in large part, to the imperfect relationship we have today. Tribal Nations remain unified in our efforts to topple these foundational myths, as our perseverance and the sophistication of our governments reveal these myths to be falsehoods.

The current relationship requires a comprehensive overhaul, including a return to a nation-to-nation relationship rooted in diplomacy. As Indian country envisions its future, we must collectively seek a new model based on: fulfillment by the United States of its trust and treaty obligations; achieving full recognition of our sovereign governmental status and authorities; ensuring that every United States citizen receives a factual and truthful accounting of the complex and complicated history of Tribal Nation-U.S. relations; recognizing the preeminent role of Tribal Nations' own laws as the means through which we define who we are and how we exert our sovereign powers and authorities; seeking to force the evolution of federal Indian policy in a manner that is consistent with self-determination and rooted in retained inherent sovereign authority as opposed to an approach that presumes Tribal Nations have been granted their sovereign rights; and demanding a reality where we as indigenous people are not marginalized, stereotyped, or discriminated against within our own lands.

### MAJOR EVENTS & ACTIONS SHAPING UNITED STATES' RELATIONSHIP WITH TRIBAL NATIONS AND RELATED TRUST & TREATY OBLIGATIONS

#### Formative Era: Beginning-1871

**Initial sustained contact between indigenous populations of North America and European subjugators. Tribal Nations used treaties to conduct business internationally with the Crowns (and later with the colonies, followed with the United States).**

- **1493** – The Pope issued a Papal Bull stating any land not inhabited by Christians was available to be “discovered.” Under this doctrine of discovery, while indigenous people maintained the right to occupy their land, the discoverer was granted sole authority to acquire the land.
- **1778** – The United States entered into the first of many treaties with Tribal Nations, thereby recognizing Tribal Nations as politically sovereign entities with treaty-making authority. A basic principle established by the treaties and the United States’ course of dealings with Tribal Nations and Indians was that the United States had a broad responsibility to Tribal Nations and Indians. This responsibility flowed both from the consideration promised in exchange for Tribal Nations’ homelands and agreement of peace—often extracted through unfair tactics and sometimes without consent—and from the fact that stripping away Tribal Nations’ homelands often stripped away the very means necessary for Tribal Nations to provide for their people.
- **1787** – The Second Continental Congress adopted the Northwest Ordinance to charter a government for the Northwest Territory and provide that good faith shall be observed toward Indians, that their lands and property shall not be taken from them without their consent, that their property and rights shall not be disturbed absent lawful wars authorized by Congress, and that laws shall be passed to prevent wrongdoing.
- **1787** – The United States adopted the Constitution, which gave Congress authority to regulate commerce with Tribal Nations and gave the Executive Branch treaty making authority with ratification by the Senate.
- **1790** – Congress enacted the first Nonintercourse Act, requiring authorization by the federal government before Indian lands were purchased.
- **1823** – The Supreme Court in *Johnson v. M’Intosh*, the first case in the Marshall Trilogy, found that, under the doctrine of discovery, the federal government had the exclusive right to extinguish Tribal Nations’ aboriginal title to land.
- **1824** – The Bureau of Indian Affairs was created within the War Department.
- **1830** – Congress enacted the Indian Removal Act, authorizing the President to force southern Tribal Nations’ removal west of the Mississippi. Many Tribal Nations were forcibly removed from their lands during this time.

- **1831** – The Supreme Court in *Cherokee Nation v. Georgia*, the second case in the Marshall Trilogy, held Tribal Nations are domestic dependent nations and that the relationship between Tribal Nations and the federal government is like that of a ward to a guardian.
- **1832** – The Supreme Court in *Worcester v. Georgia*, the third case in the Marshall Trilogy, recognized that Tribal Nations are sovereign nations with authority of self-government over their people and territories that predates the arrival of colonists, that Tribal Nations have the protection of the federal government, and that the doctrine of discovery gave the federal government the sole right to acquire their land.
- **1849** – The Bureau of Indian Affairs was transferred to the Department of the Interior.
- **1871** – Treaty making ended, and the United States instead began to carry out its relationship with Tribal Nations through legislation. This action was unilateral, and was carried out by a rider attached to the Indian Appropriations Bill of 1871.

### Allotment and Assimilation Era: 1871-1928

- **1879** – Carlisle Indian School, a well-known off reservation Indian boarding school, was established under the philosophy of “Kill the Indian, save the man.” During this time, the United States established and operated many Indian boarding schools, removing Indian children from their homes, families, and cultures.
- **1886** – The Supreme Court in *United States v. Kagama* held Congress has power to legislate with regard to Indians based on the obligations it owes to them.
- **1887** – Congress enacted the General Allotment Act (Dawes Act), which broke lands owned by Tribal Nations into parcels that were then provided to individual Indians to facilitate assimilation. Tribal Nations lost more than 90 million acres without compensation as a result of the allotment process.
- **1903** – The Supreme Court in *Lone Wolf v. Hitchcock* held Congress is authorized to unilaterally abrogate terms of a treaty.
- **1921** – Congress enacted the Snyder Act, which created a more effective funding authorization mechanism for the United States to satisfy its obligations to Indians, including for healthcare.
- **1924** – Congress enacted the Indian Citizenship Act, which extended United States citizenship to all American Indians; however, it wasn’t until the 1965 Voting Rights Act that states were required to allow American Indians to exercise their voting rights.

### Indian Reorganization Era: 1928-1945

- **1928** – The Merriam Report was released, which recommended major changes in federal Indian policy.
- **1933** – John Collier, who believed in reinvigoration of Tribal Nations’ governments to control their own destinies, was appointed Commissioner of Indian Affairs.
- **1934** – Congress enacted the Indian Reorganization Act, which ended allotment, permitted the federal government to acquire lands into trust on behalf of Tribal Nations, and provided Tribal Nations a federally-sanctioned vehicle to adopt governing documents.
- **1934** – Congress enacted the Johnson-O’Malley Act, which provided federal funding for certain services administered to Indians by other entities, such as states, and has been used mostly in the context of education.

## Termination Era: 1945-1968

- **1953** – Congress stated in House Concurrent Resolution 108 that the official policy of the federal government toward Tribal Nations was termination of federal benefits and recognition. Under this policy, many Tribal Nations' federal recognition was terminated—but most of these Tribal Nations have since been re-recognized.
- **1953** – Congress enacted Public Law 280 to cede some federal jurisdiction over Tribal Nations' lands to certain states.
- **1955** – The Facilities Transfer Act transferred Indian health programs from the BIA to the Public Health Service, establishing the Indian Health Service.
- **1956** – Congress enacted the California Rancheria Act, which provided for termination of California rancheria lands' trust status and distribution of assets.
- **1956** – Congress enacted the Indian Relocation Act to encourage Indians to relocate to urban areas.
- **1965** – Congress enacted Voting Rights Act of 1965. States were required to allow American Indians to exercise the right to vote in state elections.

## Self-Determination Era: 1968-Present

- **1968** – President Johnson issued a message to Congress, entitled "The Forgotten American: The President's Message to the Congress on Goals and Programs for the American Indian." His message proposed ending termination and promoting self-determination, and he said "[t]he special relationship between Indians and the Federal government is the result of solemn obligations which have been entered into by the United States Government."
- **1968** – In conjunction with his message to Congress, President Johnson issued Executive Order No. 11399, entitled "Establishing the National Council on Indian Opportunity." The Council included representation from Indian country and the federal government, and it helped to establish the current era of federal Indian policy by formulating President Nixon's Special Message on Indian Affairs.
- **1968** – Congress enacted the Indian Civil Rights Act, which recognized and placed certain constitutional limits on powers of self-government exercised by Tribal Nations and required Tribal Nations' consent for state assumption of jurisdiction over civil or criminal actions in Indian country.
- **1968** – The American Indian Movement (AIM) was established to advocate on behalf of Indian country.
- **1969** – The United Southeastern Tribes (which would later become United South and Eastern Tribes, Inc.) was established with the shared idea that unity between Tribal Nations was necessary to improve and strengthen their dealings with the federal government.
- **1970** – President Nixon issued a message to Congress, entitled "Special Message on Indian Affairs," in which he advocated self-determination, greater protection of Indian rights, the end of termination, and upholding the trust responsibility regardless of each Tribal Nations' progress toward self-sufficiency.
- **1974** – The Supreme Court in *Morton v. Mancari* held that a hiring preference for Indians did not "constitute 'racial discrimination'" but said instead the Constitution "singles Indians out as a proper subject for separate legislation" due to "the unique legal status of Indian tribes under federal law and upon the plenary power of Congress [drawn from the Constitution], based on a history of treaties and the assumption of a guardian-ward status." This seminal holding is one of the cornerstones of federal Indian law and has since been applied in many cases upholding actions carrying out the unique obligations the United States owes to Indians.
- **1975** – Congress enacted legislation establishing the American Indian Policy Review Commission for the comprehensive investigation and study of Indian affairs.

- **1975** – Congress enacted the Self-Determination and Educational Assistance Act, which authorized Tribal Nations to contract with the federal government for funding to provide services otherwise provided by the federal government.
- **1976** – Congress enacts the Indian Health Care Improvement Act, authorizing specific Indian Health Service programs and permitting IHS to bill Medicare and Medicaid.
- **1977** – The American Indian Policy Review Commission issued its final report, which recommended that Congress reaffirm and direct all executive agencies to administer the trust responsibility consistent with a set of specific legal principles, called for consultation with Tribal Nations and empowering Tribal Nations’ governments, and made other specific recommendations.
- **1978** – The Supreme Court in *United States v. Wheeler* held Tribal Nations’ criminal jurisdiction over Indians arises from their inherent sovereign authorities and is not granted by the United States.
- **1978** – The Supreme Court issued a decision in *Oliphant v. Suquamish Indian Tribe*, stating Tribal Nations have no criminal jurisdiction over non-Indians in Indian country without congressional authorization based on its reasoning that an exercise of such powers would be “inconsistent with their status” as “domestic dependent nations.”
- **1978** – Department of the Interior Solicitor Krulitz issued a letter to the Department of Justice stating the federal government stands in a fiduciary relationship with Tribal Nations, thereby permitting money damages for trust asset mismanagement, and that the Department of Justice should not take a conflicting position.
- **1978** – Congress enacted the Indian Child Welfare Act to stop the practice of removing Native children from their families and Tribal Nations.
- **1978** – Congress enacted the American Indian Religious Freedom Act, to eliminate interference with the free exercise of Native American religions, based on the First Amendment of the U.S. Constitution; and to recognize the civil liberties of Native Americans, Alaska Natives, and Native Hawaiians to practice, protect and preserve their inherent right of freedom to believe, express, and exercise their traditional religious rights, spiritual and cultural practices.
- **1979** – Department of Justice Attorney General Bell issued a letter to Secretary of the Interior Andrus setting forth the Department of Justice’s position interpreting the federal government’s fiduciary responsibility to Tribal Nations regarding asset management more narrowly than what Tribal Nations argue for.
- **1980** – The Supreme Court in *Washington v. Confederated Tribes of the Colville Indian Reservation* held the state had authority to impose taxes on certain on reservation activities.
- **1980 and 1983** – The Supreme Court issued decisions in *United States v. Mitchell*, which, although ruling in favor of the Tribal Nation party, construed the federal government’s compensable fiduciary trust responsibilities to Tribal Nations for asset management more narrowly than what Tribal Nations argue for. The letter from Solicitor Krulitz was filed in the case and cited in the dissent.
- **1989** – The Supreme Court issued decision in *Cotton Petroleum Corporation v. New Mexico*, which applied the Bracker balancing test to weigh state, Tribal, and federal interests in determining whether states can imposing tax on non-Tribal entities conducting commercial activities on Tribal land. SCOTUS noted that Congress could offer tax immunity, if it chose to do so.
- **1994** – Congress enacted the American Indian Trust Fund Management Reform Act, which reaffirmed and specified federal trust responsibilities, authorized Tribal Nations to manage trust funds, and established the Office of the Special Trustee for American Indians.
- **1994** – Congress passed the Federally Recognized Indian Tribe List Act, which directs the Department of the Interior to publish annually a list of federally-recognized Tribal Nations and stipulates that federal agencies must treat all federally-recognized Tribal Nations equally.
- **1997** – Secretary of the Interior Babbitt issued Secretarial Order No. 3206, entitled “American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act,” which clarified responsibilities when actions taken under the Endangered Species Act affect Indian lands, Tribal Nations’ trust resources, or the exercise of Tribal Nations’ rights.



- **1998** – The Supreme Court in *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.* refused to find an exception to Tribal Nations’ sovereign immunity for off reservation commercial activities.
- **2000** – Secretary of the Interior Babbitt issued Secretarial Order No. 3215, entitled “Principles for the Discharge of the Secretary’s Trust Responsibility,” which provided guidance to employees who carry out the trust responsibility as it pertains to Indian trust assets and reaffirmed the letter from Solicitor Krulitz. The Department of the Interior then codified those principles for managing Indian trust assets in the Departmental Manual.
- **2000** – President Clinton issued Executive Order No. 13175, entitled “Consultation and Coordination with Indian Tribal Governments,” which required federal agencies to consult with Tribal Nations for policies that have Tribal implications.
- **2001** – Secretary of the Interior Babbitt issued Secretarial Order No. 3225, entitled “Endangered Species Act and Subsistence Uses in Alaska,” which supplemented Secretarial Order No. 3206.
- **2003** – The Supreme Court issued a decision in *United States v. Navajo*, which construed the federal government’s compensable fiduciary trust responsibilities to Tribal Nations for asset management more narrowly than what Tribal Nations argue for.
- **2003** – The Supreme Court issued a decision in *United States v. White Mountain Apache Tribe*, which found the federal government, when using a Tribal Nation’s trust land or property, owes a duty to maintain that land or property.
- **2003** – The United States Commission on Civil Rights issued a report, entitled “A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country.”
- **2009** – The Supreme Court issued a decision in *Carcieri v. Salazar*, which ruled that the Secretary of the Interior’s authority to acquire land into trust on behalf of Tribal Nations under the Indian Reorganization Act was limited to only those Tribal Nations that were “under federal jurisdiction” in 1934.
- **2009** – President Obama held the first White House Tribal Nations Conference, where Tribal Leaders were invited to meet with the President and members of his Cabinet to discuss issues of importance to Indian country. President Obama continued to hold the White House Tribal Nations Conference each year.
- **2009** – President Obama issued a Memorandum for the Heads of Executive Departments and Agencies, entitled “Tribal Consultation,” which directed agencies to develop detailed action plans to implement the Tribal Nation consultation policies and directives of Executive Order No. 13175.
- **2009** – The United States settled the *Cobell* trust fund mismanagement litigation, and Secretary of the Interior Salazar issued Secretarial Order No. 3292, entitled “Individual Indian Trust Management,” which provided for the establishment of the Secretarial Commission on Indian Trust Administration and Reform to evaluate the Department of the Interior’s management and administration of Indian trust assets.
- **2010** – The United States endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), becoming the last nation to sign on, stating the “aspirations [the declaration] affirms, including the respect for the institutions and rich cultures of Native peoples, are one we must always seek to fulfill.”
- **2010** – The Indian Health Care Improvement Act is permanently reauthorized as a part of the Patient Protection and Affordable Care Act after a 10 year effort from Tribal Nations and organizations.
- **2011** – In *United States v. Jicarilla Apache Nation*, the Department of Justice asserted that the federal government’s legally enforceable trust obligations are limited to the terms of statutes and regulations, questioning the legal effect of the letter from Solicitor Krulitz. The Supreme Court reaffirmed that it looks to common law to determine the scope of federal Indian trust liability. It also stated “[t]he Government, following a humane and self-imposed policy . . . has charged itself with moral obligations of the highest responsibility and trust.”
- **2013** – President Obama issued Executive Order No. 13647, entitled “Establishing the White House Council on Native American Affairs,” to ensure that the federal government engages in a true and lasting government-to-government relationship with federally recognized Tribal Nations in a more coordinated and effective manner, including by better carrying out its trust responsibilities.

- **2013** – The Secretarial Commission on Indian Trust Administration and Reform issued a report that recognized trust duties are not discretionary and recommended that the federal government (1) reaffirm that all federal agencies have a trust responsibility to Indians that demands a high standard of conduct, (2) develop a uniform consultation policy, and (3) restructure and improve the management, oversight, and accountability of federal trust administration.
- **2013** – The Supreme Court in *Adoptive Couple v. Baby Girl* interpreted the Indian Child Welfare Act narrowly, with some Justices asserting possible equal protection concerns.
- **2013** – President Obama signs the Violence Against Women Act Reauthorization (VAWA) into law. Tribal advocates fought hard to ensure that the law recognized our rights as inherent as opposed to granted. In signing the bill into law, President Obama expressed “Tribal governments have an inherent right to protect their people, and all women deserve the right to live free from fear.”
- **2014** – Secretary of the Interior Jewell issued Secretarial Order No. 3335, entitled “Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries,” which reaffirmed the letter from Solicitor Krulitz and set forth guiding principles for bureaus and offices to follow to ensure that the Department of the Interior fulfills its trust responsibility.
- **2016** – Standing Rock Protest begins in opposition to the Energy Transfer Partners’ Dakota Access Pipeline project that would cross beneath the Missouri and Mississippi Rivers, as well as part of Lake Oahe near the Standing Rock Indian Reservation. The protest was in direct opposition to the threat the pipeline posed to the region’s clean water and ancient burial grounds.
- **2017** – President Trump in his signing statement associated with appropriations legislation implied that some services for Indians are unconstitutionally race based, stating he will treat provisions that allocate benefits on the basis of race, ethnicity, and gender—listing the Native American Housing Block Grant program—in a manner consistent with the equal protection clause of the Constitution. He has since continued to include such language in appropriations legislation signing statements.
- **2017** – President Trump signed a presidential memorandum to advance approval of construction of the Dakota Access Pipeline.
- **2018** – The Centers for Medicare and Medicaid Services within the Department of Health and Human Services took the position that providing or approving an exemption from Medicaid work requirements for Indians would raise civil rights concerns.
- **2018** – The United States Commission on Civil Rights issued a report entitled “Broken Promises: Continuing Federal Funding Shortfall for Native Americans,” which updates its prior 2003 report, entitled “A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country.”
- **2018** – The Reclaiming Native Truth: A Project to Dispel America’s Myths and Misconceptions Report issued. It is the largest public opinion research project ever conducted by, for and about Native peoples. The research has been critically important in helping to start important and potentially transformative conversations with leaders in entertainment, media, K-12 education, philanthropy and other sectors. It has helped to validate, through data, the experiences of Native peoples across the country of how invisibility and toxic stereotypes that are perpetuated primarily by media, pop culture and K-12 education fuel bias and racism against Native peoples. It has raised important awareness among non-Natives allies about these systemic issues and the abundance of opportunities to work in partnership with Native peoples to advance narrative change and social justice.
- **2019** – On August 9, the Fifth Circuit Court of Appeal affirmed the constitutionality of the Indian Child Welfare Act (the Department of Justice defended the Indian Child Welfare Act’s constitutionality). This decision was a reversal of the 2018 U.S. District Court for the Northern District of Texas decision in *Brackeen v. Bernhardt* that held the Indian Child Welfare Act violates the Constitution, including the equal protection clause (it further held that ICWA is race based, finding the principles of *Morton v. Mancari* do not extend to cover it).



THE SECRETARY OF THE INTERIOR  
WASHINGTON

ORDER NO. 3335

Subject: Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries

Sec. 1 **Purpose.** In 2009, Secretary's Order No. 3292 established a Secretarial Commission on Indian Trust Administration and Reform (Commission). The Commission issued its Final Report and Recommendations in December 2013, which sets forth its views and recommendations regarding the United States' trust responsibility. In response to the report, this Order sets forth guiding principles that bureaus and offices will follow to ensure that the Department of the Interior (Department) fulfills its trust responsibility.

Sec. 2 **Authority.** This Order is issued pursuant to the U.S. Constitution, treaties, statutes, Executive Orders, and other Federal laws that form the foundation of the Federal-tribal trust relationship and in recognition of the United States' trust responsibility to all federally recognized Indian tribes and individual Indian beneficiaries.

Sec. 3 **Background.** The trust responsibility is a well-established legal principle that has its origins with the formation of the United States Government. In the modern era, Presidents, Congress, and past Secretaries of the Interior have recognized the trust responsibility repeatedly, and have strongly emphasized the importance of honoring the United States' trust responsibility to federally recognized tribes and individual Indian beneficiaries.

a. **Legal Foundation.** The United States' trust responsibility is a well-established legal obligation that originates from the unique, historical relationship between the United States and Indian tribes. The Constitution recognized Indian tribes as entities distinct from states and foreign nations. Dating back as early as 1831, the United States formally recognized the existence of the Federal trust relationship toward Indian tribes. As Chief Justice John Marshall observed, "[t]he condition of the Indians in relation to the United States is perhaps unlike that of any other two people in existence ... marked by peculiar and cardinal distinctions which exist nowhere else." *Cherokee Nation v. Georgia*, 30 U.S. 1, 16 (1831). The trust responsibility consists of the highest moral obligations that the United States must meet to ensure the protection of tribal and individual Indian lands, assets, resources, and treaty and similarly recognized rights. See generally Cohen's Handbook of Federal Indian Law § 5.04[3] (Nell Jessup Newton ed., 2012); *Seminole Nation v. United States*, 316 U.S. 286, 296-97 (1942).

The U.S. Supreme Court has repeatedly opined on the meaning of the United States' trust responsibility. Most recently, in 2011, in *United States v. Jicarilla*, the Supreme Court recognized the existence of the trust relationship and noted that the "Government, following 'a humane and self-imposed policy . . . has charged itself with moral obligations of the highest responsibility and trust,' obligations 'to the fulfillment of which the national honor has been



committed.”” The Court further explained that “Congress has expressed this policy in a series of statutes that have defined and redefined the trust relationship between the United States and the Indian tribes. In some cases, Congress established only a limited trust relationship to serve a narrow purpose. In other cases, we have found that particular ‘statutes and regulations . . . clearly establish fiduciary obligations of the Government’ in some areas. Once federal law imposes such duties, the common law ‘could play a role.’ But the applicable statutes and regulations ‘establish [the] fiduciary relationship and define the contours of the United States’ fiduciary responsibilities.”” *United States v. Jicarilla Apache Nation*, 131 S. Ct. 2313, 2324-25 (2011)(internal citations omitted).

While the Court has ruled that the United States’ liability for breach of trust may be limited by Congress, it has also concluded that certain obligations are so fundamental to the role of a trustee that the United States must be held accountable for failing to conduct itself in a manner that meets the standard of a common law trustee. “This is so because elementary trust law, after all, confirms the commonsense assumption that a fiduciary actually administering trust property may not allow it to fall into ruin on his watch. ‘One of the fundamental common-law duties of a trustee is to preserve and maintain trust assets.’” *United States v. White Mountain Apache Tribe*, 537 U.S. 465, 475 (2003)(internal citations omitted).

b. Presidential Commitments to the Trust Responsibility. Since this country’s founding, numerous Presidents have expressed their commitment to upholding the trust responsibility. In the historic Special Message on Indian Affairs that marked the dawn of the self-determination age, President Nixon stated “[t]he special relationship between Indians and the Federal government is the result of solemn obligations which have been entered into by the United States Government . . . [T]he special relationship . . . continues to carry immense moral and legal force. To terminate this relationship would be no more appropriate than to terminate the citizenship rights of any other American.” Public Papers of the President: Richard M. Nixon, Special Message on Indian Affairs (July 8, 1970).

For more than four decades, nearly every administration has recognized the trust responsibility and the unique government-to-government relationship between the United States and Indian tribes. President Obama established a White House Council on Native American Affairs with the Secretary of the Interior serving as the Chair. President Barack Obama, Executive Order No. 13647, Establishing the White House Council on Native American Affairs (June 26, 2013). The Order requires cabinet-level participation and interagency coordination for the purpose of “establish[ing] a national policy to ensure that the Federal Government engages in a true and lasting government-to-government relationship with federally recognized tribes in a more coordinated and effective manner, including by better carrying out its trust responsibilities.” See also President Barack Obama, Memorandum on Tribal Consultation (Nov. 5, 2009); President George W. Bush, Executive Order No. 13336, American Indian and Alaska Native Education (Apr. 30, 2004); President William J. Clinton, Public Papers of the President: Remarks to Indian and Alaska Native Tribal Leaders (Apr. 29, 1994); President George H.W. Bush, Public Papers of the President: Statement Reaffirming the Government-to-Government Relationship Between the Federal Government and Indian Tribal Governments (Jun.14, 1991); President Ronald Reagan, American Indian Policy Statement, 19 Weekly Comp. Pres. Doc. 98 (Jan. 24, 1983); President Gerald L. Ford, Public Papers of the President: Remarks at a Meeting



with American Indian Leaders (July 16, 1976); President Richard M. Nixon, Public Papers of the President: Special Message on Indian Affairs (July 8, 1970); President Lyndon B. Johnson, Public Papers of the President: Special Message to the Congress on the Problems of the American Indian: "The Forgotten American" (March 6, 1968).

c. Congress. Congress has also recognized the United States' unique responsibilities to Indian tribes and individual Indian beneficiaries. Recently, Congress passed a joint resolution recognizing the "special legal and political relationship Indian tribes have with the United States and the solemn covenant with the land we share" and acknowledged the "long history of depredations and ill-conceived policies by the Federal government regarding Indian tribes" and offered "an apology to all Native peoples on behalf of the United States." 111th Cong. 1st Sess., S.J. Res. 14 (Apr. 30, 2009). Congress has expressly and repeatedly recognized the trust responsibility in its enactments impacting Indian Affairs. *See, e.g.,* Indian Education and Self-Determination and Assistance Act of 1975; Tribal Self-Governance Amendments of 2000; American Indian Trust Fund Management Reform Act of 1994; Federally Recognized Indian Tribe List Act of 1994; Tribally Controlled Schools Act of 1988 and Indian Education Act of 1972; Indian Child Welfare Act of 1978; Indian Mineral Development Act of 1982; Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act).

d. The Department of the Interior. The Department likewise has recognized its obligations as a trustee towards Indian tribes and individual Indian beneficiaries and has been vested with the authority to perform certain specific trust duties and manage Indian affairs.

The Bureau of Indian Affairs (BIA) was transferred from the War Department to the Department in 1849. Congress delegated authority to the Department for the "management of all Indian affairs and of all matters arising out of Indian relations[.]" 25 U.S.C. § 2 (2014); *see also* 25 U.S.C. § 9 (2014); 43 U.S.C. § 1457. The BIA became the principal actor in the relationship between the Federal Government and Indian Tribes, and later Alaska Native Villages, exercising administrative jurisdiction over tribes, individual Indians, their land and resources.

The BIA has evolved dramatically over the last 185 years from an agency implementing past policies of allotment and assimilation, to a bureau charged with promoting and supporting Indian Self-Determination. In addition, several other bureaus and offices within the Department were created for or have specific duties with respect to fulfilling the trust responsibility, such as the Bureau of Indian Education, Office of the Assistant Secretary – Indian Affairs, Secretary's Indian Water Rights Office, Office of the Special Trustee for American Indians, Land Buy-Back Program for Tribal Nations, Office of Historical Trust Accounting, Office of Natural Resource Revenue, Office of Appraisal Services, and Office of Minerals Evaluations. All of these programs support and assist federally recognized tribes in the development of tribal government programs, building strong tribal economies, and furthering the well-being of Indian people. As instruments of the United States that make policy affecting Indian tribes and individual Indian beneficiaries, the Bureau of Land Management, Bureau of Reclamation, Fish & Wildlife Service, National Park Service, and the Department's other bureaus and offices share the same general Federal trust responsibility toward tribes and their members.



In an extended legal opinion regarding the meaning of the trust responsibility, former Department of the Interior Solicitor Leo M. Krulitz concluded that “[t]he trust responsibility doctrine imposes fiduciary standards on the conduct of the executive. The government has fiduciary duties of care and loyalty, to make trust property income productive, to enforce reasonable claims on behalf of Indians, and to take affirmative action to preserve trust property.” Memorandum from Department of the Interior Solicitor Leo M. Krulitz to Assistant Attorney General James W. Moorman, at 2 (Nov. 21, 1978). This opinion remains in effect today.

In exercising this broad authority, past Secretaries have acknowledged that the Department’s relationship with Indian tribes and individual Indian beneficiaries is guided by the trust responsibility and have expressed a paramount commitment to protect their unique rights and ensure their well-being, while respecting tribal sovereignty. See e.g., Secretary’s Order 3317, Department of the Interior Policy on Consultation with Indian Tribes (Dec. 01, 2011); Secretary’s Order 3175, Departmental Responsibilities for Indian Trust Resources (Nov. 8, 1993); Secretary’s Order 3206, American Indian Tribal Rights, Federal Trust Responsibilities, and the Endangered Species Act (Jun. 5, 1997); Secretary’s Order 3215, Principles for the Discharge of the Secretary’s Trust Responsibility (Apr. 28, 2000); Secretary’s Order 3225, Endangered Species Act and Subsistence Uses in Alaska (Jan. 19, 2001).

The Department has also sought to build a strong government-to-government relationship with Indian tribes. The Department of the Interior Policy on Consultation with Indian Tribes, which was adopted in December 2011, sets forth standards for engaging with Indian tribes on a government-to-government basis to ensure that the decisions of the Department consider the impacts on affected Indian tribes and their members.

**Sec. 4 A New Era of Trust.** During the last few decades, the trust relationship has evolved. In the Era of Tribal Self-Determination, the Federal trust responsibility to tribes is often fulfilled when the Department contracts with tribal governments to provide the Federal services owed under the trust responsibility. Because tribal governments are more directly accountable to the people they represent, more aware of the problems facing Indian communities, and more agile in responding to changes in circumstances, tribal governments can often best meet the needs of Indian people. In sum, the Federal trust responsibility can often be achieved best by empowering tribes, through legislative authorization and adequate funding to provide services that fulfill the goals of the trust responsibility.

In recent decades, the trust relationship has weathered a difficult period in which Indian tribes and individual Indians have resorted to litigation asserting that the Department had failed to fulfill its trust responsibility, mainly with regard to the management and accounting of tribal trust funds and trust assets. In an historic effort to rebuild the trust relationship with Indian tribes, the Department recently settled numerous “breach of trust” lawsuits. This includes *Cobell v. Salazar*, one of the largest class action suits filed against the United States, and more than 80 cases involving Indian tribes. Resolution of these cases marks a new chapter in the Department’s history and reflects a renewed commitment to moving forward in strengthening the government-to-government relationship with Indian tribes and improving the trust relationship with tribes and individual Indian beneficiaries.



As part of the *Cobell* Settlement, the Department established a Secretarial Commission on Indian Trust Administration and Reform in 2009 through Secretary's Order No. 3292. The Commission issued its final report in December 2013. The report highlighted the significance of the Federal trust responsibility and made recommendations to the Department on how to further strengthen the commitment to fulfill the Department's trust obligations. The Commission urged a "renewed emphasis on the United States' fiduciary obligation" and asserted that this "could correct some [issues], especially with respect to ensuring that all federal agencies understand their obligations to abide by and enforce trust duties."

As a response to the Commission's recommendation, this Order hereby sets forth seven guiding principles for honoring the trust responsibility for the benefit of current and future generations.

**Sec. 5 Guiding Principles.** Pursuant to the long-standing trust relationship between the United States, Indian tribes and individual Indian beneficiaries and in furtherance of the United States' obligation to fulfill the trust responsibility, subject to Section 6 below, all bureaus and offices of the Department are directed to abide by the following guiding principles consistent with all applicable laws. Bureaus and offices shall:

Principle 1: Respect tribal sovereignty and self-determination, which includes the right of Indian tribes to make important decisions about their own best interests.

Principle 2: Ensure to the maximum extent possible that trust and restricted fee lands, trust resources, and treaty and similarly recognized rights are protected.

Principle 3: Be responsive and informative in all communications and interactions with Indian tribes and individual Indian beneficiaries.

Principle 4: Work in partnership with Indian tribes on mutually beneficial projects.

Principle 5: Work with Indian tribes and individual Indian beneficiaries to avoid or resolve conflicts to the maximum extent possible in a manner that accommodates and protects trust and restricted fee lands, trust resources, and treaty and similarly recognized rights.

Principle 6: Work collaboratively and in a timely fashion with Indian tribes and individual Indian beneficiaries when evaluating requests to take affirmative action to protect trust and restricted fee lands, trust resources, and treaty and similarly recognized rights.

Principle 7: When circumstances warrant, seek advice from the Office of the Solicitor to ensure that decisions impacting Indian tribes and/or individual Indian beneficiaries are consistent with the trust responsibility.

**Sec. 6 Scope and Limitations.**

a. This Order is for guidance purposes only and is adopted pursuant to all applicable laws and regulations.

b. This Order does not preempt or modify the Department's statutory mission and authorities, position in litigation, applicable privilege, or any professional responsibility obligations of Department employees.

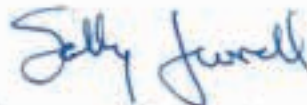
c. Nothing in this Order shall require additional procedural requirements related to Departmental actions, activities, or policy initiatives.

d. Implementation of this Order shall be subject to the availability of resources and the requirements of the Anti-Deficiency Act.

e. Should any Indian tribe(s) and the Department agree that greater efficiency in the implementation of this Order can be achieved, nothing in this Order shall prevent them from implementing strategies to do so.

f. This Order is intended to enhance the Department's management of the United States' trust responsibility. It is not intended to, and does not, create any right to administrative or judicial review or any legal right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies, or instrumentalities, its officers or employees, or any other person.

**Sec. 7 Expiration Date:** This Order is effective immediately and will remain in effect until it is incorporated into the Department Manual, or is amended, suspended, or revoked, whichever occurs first.



Secretary of the Interior

Date: August 20, 2014

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## THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES\*, A QUICK REFERENCE

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The UN Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295, was adopted on September 13, 2007 by the United Nations General Assembly, after more than thirty years of work and negotiations. One hundred and forty-three UN Member States voted to adopt the Declaration and four voted against. All four countries that voted “no” have since changed their positions and now support the Declaration.<sup>1</sup>

The Declaration, made up of 26 preambular paragraphs and 46 operative articles, is a monumental statement of individual and collective rights created with the participation of the rights holders themselves – indigenous peoples. Though the Declaration is not legally binding on countries in and of itself, it sets the rules for the treatment of, and obligations of states toward, indigenous peoples and individuals. It can be used as a moral and political tool to guide countries’ laws, policies, and practices toward indigenous peoples and to interpret international human rights laws. In many provisions, the Declaration states customary international law – that is, the practices of countries they believe to be legally required. These elements of the Declaration are binding as customary international law.

The following is a summary of some of the most important rights in the Declaration. It is not an exhaustive list of all the rights of indigenous peoples and individuals contained in the Declaration. The full text of the Declaration is available at: [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf).

**Article 1. Scope.** Indigenous peoples have the right to collective and individual enjoyment of all human rights recognized in international law.

**Article 2. Non-discrimination.** Indigenous peoples are free and equal to all others, and have the right to be free from discrimination.

**Articles 3-5. Self-determination.** Indigenous peoples have the right to self-determination, including their economic, social, and cultural development, and the right to self-government, including the right to maintain and strengthen their own governing institutions.

**Article 6. Nationality.** Indigenous individuals have the right to a nationality.

**Articles 7-10. Life and security.** Indigenous peoples have the right to life, freedom, peace, and security, and to exist as distinct peoples, to belong to an indigenous community or nation, and to be free from forced removal, forced assimilation, or destruction of their cultures. States must act to prevent taking of their lands, forced relocation, and propaganda to incite discrimination.

**Articles 11-13. Culture and language.** Indigenous peoples have the right to practice and preserve their cultural and spiritual traditions and customs, including their histories, languages, oral traditions, philosophies, writing systems and literatures. States must take effective measures to ensure protection of such rights, to ensure indigenous peoples can understand and be understood in certain proceedings, and to enable access to and/or repatriation of ceremonial objects and remains in the possession of States.

**Articles 14-17. Education, public information, and employment.** Indigenous peoples have the right to education, media, and labor protections without discrimination, and to establish and control their own educational and media systems. States must combat discrimination and take measures to ensure accurate media representation of indigenous cultures, and to protect indigenous children from labor exploitation.

\*Endorsed by the United States in 2010.



**Articles 18-19. Consultation and participatory decision-making.** Indigenous peoples have the right to participate in decision-making in matters that will affect their rights. States must consult with indigenous peoples in order to obtain their free, prior, and informed consent before adopting measures that may affect them.

**Articles 20-24. Economic and social rights, and vulnerable populations.** Indigenous peoples have the right to maintain their health practices and to attain the highest standard of health, and to improve their political, social and economic systems, especially those concerning subsistence and development priorities and strategies. States shall take effective and special measures to ensure improvement of their conditions, with particular attention to the rights and special needs of indigenous elders, women, children, and persons with disabilities. States must take measures to ensure women and children are free from violence and discrimination.

**Articles 25-28. Lands, territories, and resources.** Indigenous peoples have the right to own and control the lands they possess, as well as the right to compensation for the taking of their lands. States shall provide legal recognition of their lands through fair and open processes.

**Articles 29-31. Environmental health.** Indigenous peoples have the right to protect their traditional knowledge, conserve and protect their environment, and restore their health, including by restricting hazardous waste or military activities on their lands.

**Article 32. Development.** Indigenous peoples have the right to develop their territories. States must consult with them in order to obtain their free, prior, and informed consent before approval of projects that may affect them, and provide redress and mitigate adverse impacts.

**Articles 33-35. Self-governance.** Indigenous peoples have the right to determine their own membership, to promote their institutional and juridical systems, and to determine the responsibilities of individuals to their communities.

**Articles 36-37. Treaties and international relations.** Indigenous peoples have the right to the recognition and enforcement of international treaties, and to maintain and develop political, economic, and cultural relationships across borders.

**Articles 38-42. Implementation.** The UN system and States should provide the necessary financial and technical assistance, and States must take appropriate measures, including legislative measures, to ensure implementation of this Declaration. Indigenous peoples have the right to dispute resolution mechanisms to address infringements of their rights.

**Articles 43-46. Interpretation.** Rights and freedoms recognized in this Declaration constitute the minimum human rights standards for indigenous peoples, are equally guaranteed to men and women, do not diminish any existing or future rights of indigenous peoples, do not provide a right of secession from States, and shall be interpreted in accordance with the principles of justice, democracy, respect, equality, non-discrimination, good governance, and good faith.

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<sup>i</sup> On April 3, 2009, Australia changed its position and moved to endorse the UN Declaration. Australia was followed by: New Zealand on April 20, 2010; Canada on November 12, 2010; and the United States on December 16, 2010. States abstaining from the vote in 2007 – Samoa, Colombia, and the Ukraine – have also indicated their support.

**MAIN OFFICE**

602 NORTH EWING STREET  
HELENA, MT 59601  
406.449.2006  
MT@INDIANLAW.ORG

**WASHINGTON OFFICE**

601 E STREET SE  
WASHINGTON, DC 20003  
202.547.2800  
DCOFFICE@INDIANLAW.ORG



# AN INDIAN TRUST FOR THE TWENTY-FIRST CENTURY

*Natural Resources Journal, Vol. 46, p. 317, 2006*



**Kevin Gover**

*Arizona State University (ASU) - Sandra Day O'Connor College of Law*

The trust responsibility has served as the source of federal authority to wreak all manner of harm on tribal communities. The responsibility that the United States has assumed to protect Indian wellbeing has created the "plenary power" that the United States exercises in Indian affairs. This power has been employed often to the enormous disadvantage of Indians. This power arose from two key assumptions among the three branches of the federal government: (1) Indians were incompetent to deal with the complex political and economic systems of white Americans and required federal protection and (2) Indian Tribes would disappear within one or two generations. These assumptions were understandable at the beginning of the twentieth century because Indians had been deprived entirely of their traditional means of sustenance and had virtually no economic system. Moreover, the purpose of federal policy at the time was the destruction of the Tribes, leavened by a humane belief that individual Indians could be saved through immersion into white culture.

These assumptions shaped the trust responsibility at its beginning, and its effects reside in the current administration of the trust. Legal doctrine governing the trust responsibility and federal plenary power has changed little in the past century, even while Indian communities have undergone profound change. In the past 40 years, Indian Tribes have demanded and gained fundamental changes in the way that the United States relates to and delivers services to them. More importantly, though Indians still lag behind the general population in educational attainment, the gap has closed considerably and new generations of college-educated experts are entering tribal government. Tribes have not disappeared, and they are not incompetent. The assumptions underlying the trust are invalid, and it necessarily follows that the specifics of the trust hold little value in the making of modern Indian policy. The trust responsibility must be modernized to meet the new reality.

The concept of a federal responsibility for Indian property arose in the nineteenth century as a means of protecting Indians from intrusions by outsiders. By the end of that century, it had evolved into an intrusive means of denying Tribes control of their lands through the exercise of an unconstrained federal power to manage Indian property regardless of the desires of the Indians. Congress's exercise of this "plenary power" deprived the Tribes of two-thirds of the lands to which the Tribes held recognized title in less than 50 years. The concept of the trust responsibility and the nature of federal power over Indian lands that was born in this era may still be found in modern administration of the trust.

These devastating losses were followed by inconsistent federal policies that swung wildly from policies supporting tribal selfgovernance and federal protection of tribal resources to policies literally disestablishing tribal governments and forswearing any further federal responsibility for tribal resources. As a result, the problems of trust administration that emerged early in the twentieth century festered into the collapse of the trust administration system at the century's end. Further, this history of traumatic shifts in policy leaves tribes deeply wary of any federal policy initiative to restore tribal resources to tribal control.





UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
WASHINGTON, D.C. 20240

NOV 21 1978

Honorable James W. Moorman  
Assistant Attorney General  
United States Department of Justice  
Washington, D.C. 20530

Re: United States v. Maine

Dear Mr. Moorman:

By letter of October 20, 1978, to the Attorney General, I requested that Justice not file any pleading designed to advise the federal district court of the government's view of the nature of the trust relationship between the United States and Indian tribes. I hereby reaffirm the views set forth in my October 20 letter. I did suggest in the letter, however, that Justice and Interior continue to work on the legal questions concerning the government's trust responsibility.

Congress has reposed principal authority for "the management of all Indian affairs and of all matters arising out of Indian relations" with this Department. 25 U.S.C. Sec. 2. As you no doubt realize, any legal memorandum filed by the Attorney General on such a broad issue as the trust responsibility would have far reaching policy implications. We have serious reservations about the statement as originally drafted and I am attaching a line by line critique, as promised, as a way to highlight some of the disputed issues. To be of further assistance to you, set forth below is this Department's view of the legal obligations of the United States, as defined by the courts, with respect to Indian property interests.

That the United States stands in a fiduciary relationship to American Indian tribes, is established beyond question. The specific scope and content of the trust responsibility is less clear. Although the law in this area is evolving, meaningful standards have been established by the decided cases and these standards affect the government's administration of Indian policy. Our discussion is confined to the government's responsibilities concerning Indian property interests and should be understood in that context. Our conclusions may be summarized as follows:

1. There is a legally enforceable trust obligation owed by the United States Government to American Indian tribes. This obligation originated in the course of dealings between the government and the Indians and is reflected in the treaties, agreements, and statutes pertaining to Indians.

2. While Congress has broad authority over Indian affairs, its actions on behalf of Indians are subject to Constitutional limitations (such as the Fifth Amendment), and must be "tied rationally" to the government's trust obligation; however, in its exercise of other powers, Congress may act contrary to the Indians' best interests.

3. The trust responsibility doctrine imposes fiduciary standards on the conduct of the executive. The government has fiduciary duties of care and loyalty, to make trust property income productive, to enforce reasonable claims on behalf of Indians, and to take affirmative action to preserve trust property.

4. Executive branch officials have discretion to determine the best means to carry out their responsibilities to the Indians, but only Congress has the power to set policy objectives contrary to the best interests of the Indians.

5. These standards operate to limit the discretion not only of the Secretary of the Interior but also of the Attorney General and other executive branch officials.

#### ORIGIN OF THE DOCTRINE

The origin of the trust relationship lies in the course of dealings between the discovering European nations and (later the original states and the United States) the Native Americans who occupied the continent. The interactions between these peoples resulted in the conclusion by this country of treaties and agreements recognizing the quasi-sovereign status of the Native American tribes.

The Supreme Court has stated that:

In the exercise of the war and treaty powers, the United States overcame the Indians and took possession of their lands, sometimes by force, leaving them an uneducated, helpless and dependent people, needing protection

against the selfishness of others and their own improvidence. Of necessity, the United States assumed the duty of furnishing that protection, and with it the authority to do all that was required to perform that obligation and to prepare the Indians to take their place as independent, qualified members of the modern body politic. Board of County Commissioners v. Seber, 318 U.S. 705, 715 (1943).

Implicitly, the Court recognized the course of history by which the Indian tribes concluded treaties of alliance or—after military conquest—peace and reconciliation with the United States. In virtually all these treaties, the United States promised to extend its protection to the tribes. Consequently, the trust responsibility to Native Americans has its roots for the most part in solemn contracts and agreements with the tribes. The tribes ceded vast acreages of land and concluded conflicts on the basis of the agreement of the United States to protect them from persons who might try to take advantage of their weak position. No comparable duty is owed to other United States citizens.

While the later executive agreements and presidential orders implementing them with tribes are shorter and less explicit than the treaties, a similar guarantee of protection can be implied from them. As the Court stated recently in Morton v. Mancari, 471 U.S. 535 (1974), then, "the unique legal status of Indian tribes under federal law (is) . . . based on a history of treaties and the assumption of a guardian-ward status."

The treaties and agreements represented a kind of land transaction, contract, or bargain. The ensuing special trust relationship was a significant part of the consideration of that bargain offered by the United States. By the treaties and agreements, the Indians commonly reserved part of their aboriginal land base and this reservation was guaranteed to them by the United States. By administrative practice and later by statute, the title to this land was held in trust by the United States for the benefit of the Indians.

From the beginning, the Congress was a full partner in the establishment of the federal trust responsibility to Indians. Article III of the Northwest Ordinance of 1787, which was ratified by the first Congress assembled under the new Constitution in 1789, 1 Stat. 50, 52, declared:

The utmost good faith shall always be observed toward the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

And in 1790, Congress enacted the Non-Intercourse Act, 1 Stat. 137, 138, now codified as 25 U.S.C. § 177, which itself established a fiduciary obligation on the part of the United States to protect Indian property rights. See Joint Tribal Council of the Passamaquoddy Tribe v. Morton, 528 F. 2d 370 (1st Cir. 1975), and United States v. Southern Pacific Transportation Co., 543 F.2d 676, 677-699 (9th Cir. 1976).

Articulation of the concept of the federal trust responsibility as including more protection than simple federal control over Indian lands evolved judicially. It first appeared in Chief Justice Marshall's decision in Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831). Cherokee Nation was an original action filed by the tribe in the Supreme Court seeking to enjoin enforcement of state laws on lands guaranteed to the tribe by treaties. The Court decided that it lacked original jurisdiction because the tribe, though a "distinct political community" and thus a "state," was neither a State of the United States nor a foreign state and was thus not entitled to bring the suit initially in the Court. Chief Justice Marshall concluded that Indian tribes "may, more correctly, perhaps, be denominated domestic dependent nations. . . in a state of pupilage" and that "their relation to the United States resembles that of a ward to his guardian." Chief Justice Marshall's subsequent decision in Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832), reaffirmed the status of Indian tribes as self-governing entities without, however, elaborating on the nature or meaning of the guardian-ward relationship.

Later in the nineteenth century, the Court used the guardianship concept as a basis for congressional power, separate and distinct from the commerce clause. United States v. Kagama, 118 U.S. 375 (1886), concerned the constitutionality of the Major Crimes Act. Although it concluded that this statute was outside the commerce power, the Court sustained the



validity of the act by reference to the Government's fiduciary responsibility. The Court stated that "[t]hese Indian tribes are the wards of the nation. They are communities dependent on the United States. . . . From their very weakness and helplessness. . . there arises the duty of protection, and with it the power."

A number of cases in the decades on either side of 1900 make express reference to such a power based on the federal guardianship, e.g., LaMotte v. United States, 254 U.S. 570, 575 (1921) (power of Congress to modify statutory restrictions on Indian land is "an incident of guardianship"); Cherokee Nation v. Hitchcock, 187 U.S. 294, 308 (1902) ("The power existing in Congress to administer upon and guard the tribal property"), and the Supreme Court has continued to sustain the constitutionality of Indian statutes as derived from an implicit power to implement the "unique obligation" and "special relationship" of the United States with tribal Indians. Cf. Morton v. Mancari, 417 U.S. 345, 552, 555 (1973).

#### LIMITATIONS ON CONGRESS

Congressional power over Indian affairs is subject to constitutional limitations. While Congress has the power to abrogate Indian treaties, Lone Wolf v. Hitchcock, 187 U.S. 553 (1903), Indian property rights are protected from repeal by the Fifth Amendment, Choate v. Trapp, 224 U.S. 665, 678 (1912). The Supreme Court held in Chippewa Indians v. United States, 301 U.S. 358 (1937), that

\* \* \* Our decisions, while recognizing that the government has power to control and manage the property and affairs of its Indian wards in good faith for their welfare, show that this power is subject to constitutional limitations and does not enable the government to give the lands of one tribe or band to another, or to deal with them as its own. \* \* \* (P. 375-376).

In addition to these constitutional limitations on Congress' power to implement its trust responsibility, the Court has observed that the guardianship "power to control and manage" is also "subject to limitations inhering in a guardianship," United States v. Creek Nation, 295 U.S. 103, 110 (1935), although the cases do not clarify with precision what limitations "inhere in a guardianship" so far as Congress is concerned. Recent cases have, however, considered the United States' trust



obligations as an independent limiting standard, for judging the constitutional validity of an Indian statute, rather than solely a source of power. In Morton v. Mancari, 417 U.S. 535 (1974), the Supreme Court upheld the constitutionality of a statute granting Indians an employment preference in the Bureau of Indian Affairs, stating:

As long as the special treatment can be tied rationally to the fulfillment of Congress' unique obligation toward the Indian, such legislative judgments will not be disturbed. Id. at 555.

Delaware Tribal Business Council v. Weeks, 430 U.S. 73 (1977), expressly held that the plenary power of Congress and the separation of powers shield "does not mean that all federal legislation concerning Indians is . . . immune from judicial scrutiny." The Court in Weeks took the significant step of examining on the merits claims by one group of Indians that legislation had denied them due process, and it applied the above-quoted standard from Mancari.

This standard, in practice, does not suggest that a reviewing court will second guess a particular determination by Congress that a statute in fact is an appropriate protection of the Indians' interests. Congressional discretion seems necessarily broad in that respect. But the power of Congress to implement the trust obligation would not seem to authorize enactments which are manifestly contrary to the Indians best interests. This does not mean that Congress could never pass a statute contrary to its determination that the Indians' best interests are served by it. Congress in its exercise of other powers such as eminent domain, war, or commerce, may act in a manner inimical to Indians. However, where Congress is exercising its authority over Indians, rather than some other distinctive power, the trust obligation would appear to require that its statutes must be based on a determination that the protection of the Indians will be served. Otherwise, a statute would not be rationally related to the trusteeship obligation to Indians. Cf., Fort Berthold Reservation v. United States, 390 F.2d 686, 691-693 (Ct. Cl. 1968).

The trust obligations of the United States constrain congressional power in another way. Since it is exercising a trust responsibility in its enactment of Indian statutes, courts presume that Congress' intent toward the Indians is benevolent. Accordingly, courts construe statutes (as well as treaties) affecting Indians as not abrogating prior Indian rights or,

in case of ambiguity, in a manner favorable to the Indians. E.g., United States v. Santa Fe Pacific Ry., 314 U.S. 339 (1941). This presumption is rebuttable in that the courts have also held that Congress can unilaterally alter treaty rights or act in a fashion adverse to the Indians interests—even to the point of terminating the trust obligation. But such an intent must be "clear," "plain" or "manifest" in the language or legislative history of an enactment. Rosebud Sioux Tribe v. Kneip, 430 U.S. 584 (1977).

#### LIMITATION ON ADMINISTRATIVE DISCRETION

In Indian, as in other matters, federal executive officials are limited by the authority conferred on them by statute. In addition, the federal trust responsibility imposes fiduciary standards on the conduct of the executive—unless, of course, Congress has expressly authorized a deviation from those standards. Since the trust obligation is binding on the United States, fiduciary standards of conduct would seem to pertain to all executive departments that may deal with Indians, not just those such as the Departments of Interior and Justice which have special statutory responsibilities for Indian affairs. This principle is implicit in United States v. Winnebago Tribe, 542 F. 2d 1002 (8th Cir. 1976), where the court employed the canon of construction that ambiguous federal statutes should be read to favor Indians to thwart the efforts of the Army Corps of Engineers to take tribal land.

A number of court decisions hold that the federal trust responsibility constitutes a limitation upon executive authority and discretion to administer Indian property and affairs. A leading case is United States v. Creek Nation, 295 U.S. 103 (1935), where the Supreme Court affirmed a portion of a decision by the Court of Claims awarding the tribe money damages against the United States for lands which had been excluded from their reservation and sold to non-Indians pursuant to an incorrect federal survey of reservation boundaries. The Court bottomed its decision on the federal trust doctrine:

The tribe was a dependent Indian community under the guardianship of the United States and therefore its property and affairs were subject to the control and management of that government. But this power to control and manage was not absolute. While extending to all appropriate measures for protecting and advancing the tribe, it was subject to limitations inhering in such a guardianship and to pertinent constitutional restrictions. 295 U.S. at 109-110. (emphasis added)

Creek Nation stands for the proposition that—unless Congress has expressly directed otherwise—the federal executive is held to a strict standard of compliance with fiduciary duties. For example, the executive must exercise due care in its administration of Indian property; it cannot as a result of a negligent survey "give the tribal lands to others, or . . . appropriate them to its own purposes." Other decisions of the Supreme Court reviewing the lawfulness of administrative conduct managing Indian property have held officials of the United States to "obligations of the highest responsibility and trust" and "the most exacting fiduciary standards," and to be bound "by every moral and equitable consideration to discharge its trust with good faith and fairness." Seminole Nation v. United States, 316 U.S. 286, 296-297, (1942); United States v. Payne, 264 U.S. 466, 448 (1924). Decisions of the Court of Claims have also held that the ordinary standards of a private fiduciary must be adhered to by executive officials administering Indian property. E.g., Coast Indian Community v. United States, 213 Ct. Cl. 129, 550 F.2d 639 (1977); Cheyenne-Arapahoe Tribes v. United States, 206 Ct. Cl. 340, 512 F.2d 1390 (1975); Menominee Tribe v. United States, 101 Ct. Cl. 10, 18-19 (1944); Navajo Tribe v. United States, 364 F. 2d. 320, 322-324 (Ct. Cl. 1966).

Creek Nation and the other cited cases were for money damages under special jurisdictional statutes in the Court of Claims. Other decisions have granted declaratory and injunctive relief against executive actions in violation of ordinary fiduciary standards. An important example is Lane v. Pueblo of Santa Rosa, 249 U.S. 110 (1919), where the Supreme Court enjoined the Secretary of the Interior from disposing of tribal lands under the general public land laws. That action, the Court observed, "would not be an exercise of the guardianship, but an act of confiscation." 249 U.S. at 113.

Federal officials as trustees are not insurers. The case of United States v. Mason, 411 U.S. 391 (1973), sustains as reasonable a decision by the Interior Department not to question certain state taxes on trust property. But the case law in recent years generally holds executive action to be reviewable both under the terms of specific statutes and for breach of obligations of an ordinary trustee. A significant recent federal district court decision, Pyramid Lake Paiute Tribe v. Morton, 354 F. Supp. 252 (D.D.C. 1972), enjoins certain diversions of water for a federal reclamation project which adversely affected a downstream lake on an Indian reservation. Although the diversions violated no specific statute or treaty, the court held them in violation of the trust responsibility.



The court held that the Secretary of the Interior--as trustee for the Indians--was obliged to discharge his potentially conflicting duty to administer reclamation statutes in a manner which does not interfere with Indian rights. The court restrained the diversions because the Secretary's activities failed "to demonstrate an adequate recognition of his fiduciary duty to the Tribe." The Department of Justice acquiesced in this decision and chose not to appeal.

If, as we believe, the decisions in such cases as Creek Nation, Pueblo of Santa Rosa, and Pyramid Lake are sound, it follows that executive branch officials are obliged to adhere to fiduciary principles. These cases, in other words, lead to the conclusion that the government is in fact a trustee for the Indians and executive branch officials must act in accordance with trust principles unless Congress specifically directs otherwise.

#### INDEPENDENT EXISTENCE

In addition, the decided cases strongly suggest that the trust obligation of the United States exists apart from specific statutes, treaties or agreements. As previously stated, the Supreme Court in United States v. Kagama, 118 U.S. 375 (1886), sustained the validity of the Major Crimes Act on the basis of the trust relationship, separate and apart from other constitutional powers. And Line v. Pueblo of Santa Rosa, 249 U.S. 110 (1919), United States v. Creek Nation, 295 U.S. 103 (1935), and Pyramid Lake Paiute Tribe v. Morton, 354 F. Supp. 252 (D.D.C. 1972), apply the trust responsibility to restrain executive action without regard to any specific treaty, statute or agreement.

This view is reinforced by reference to the origins of the trust responsibility doctrine. Originally, Great Britain claimed for itself sovereignty over all Indian lands in the English colonies. In 1763, the King issued a Royal Proclamation, the precursor of the federal Non-Inter-course Act, decreeing that Indian lands were owned by the Crown and that no person or government could acquire such lands without the consent of the Crown. This policy reflected the practical need of the Crown to assert its control over the land and wealth of the colonies and to preserve peace among the colonists and the Indians. Notably, the 1763 Proclamation applied to all Indians without regard to the presence or absence of specific treaties or agreements.

When the United States acquired sovereignty from Great Britain, it succeeded to all the incidents of the prior sovereign's power. The United States not only did not renounce the peculiar power and duty assumed by Great Britain over Indians, but endorsed it by specific reference in Article I of the Constitution.

The recent decision in Delaware Tribal Business Council v. Weeks, 430 U.S. 73 (1977), holds that the trust responsibility is subject to due process limitations. Weeks holds that Congress is not free to legislate with respect to Indians in any manner it chooses; rather, Congressional action with respect to Indians is subject to judicial review and will be sustained only so long as it can be "tied rationally to the fulfillment of Congress' unique obligation toward the Indians."

Other recent Supreme Court opinions shed further light on what is meant by the "unique obligation toward the Indian." In Morton v. Ruiz, 415 U.S. 199 (1974), the Court in holding that the Bureau of Indian Affairs erred in excluding a certain category of Indians from the benefits of its welfare program spoke of the "overriding duty of our Federal Government to deal fairly with Indians." 415 U.S. at 236. This statement appears as part of the procedural rights of Indians, and in this connection the Court cited Seminole Nation v. United States, 316 U.S. 286, 296 (1942), which says governmental action must be judged by the "strictest fiduciary standards." Most recently, in Santa Clara Pueblo v. Martinez, \_\_\_\_\_ U.S. \_\_\_\_\_ (1978), the court reviewed the record of limited Indian participation in the hearings on the Indian Civil Rights Act and said:

It would hardly be consistent with "the overriding duty of our Federal Government to deal fairly with Indians," Morton v. Ruiz, 415 U.S. 199, 236 (1974), lightly to imply a cause of action on which the tribes had no prior opportunity to present their views. \_\_\_\_\_ U.S. \_\_\_\_\_, \_\_\_\_\_ n. 30 (1978).

The "unique obligation" mentioned in Weeks and the "overriding duty" of fairness discussed in Ruiz and Martinez exist apart from any specific statute, treaty or agreement, and they impose substantive constraints on the Congress (Weeks), the Executive (Ruiz) and the Judiciary (Martinez) with respect to Indians. These recent decisions of the Supreme Court lead to the conclusion that the government's trust responsibility to the Indian has an independent legal basis and is not limited to the specific language of the statutes, treaties and agreements.



At the same time, however, the content of the trust obligation - apart from specific statutes and treaties - is limited to dealing fairly, not arbitrarily, with the Indians both with respect to procedural and substantive issues. The standard of fairness is necessarily vague and allows considerable room for discretion. But these independently based duties do not stand alone. They must be read together with the host of statutory and treaty provisions designed to provide protection for Indian interests. Illustrative of such statutes are 25 U.S.C. Sec. 81 (contracts); 25 U.S.C. Sec. 175 (legal representation); 25 U.S.C. Sec. 177 (conveyance of property); 25 U.S.C. Sec. 194 (burden of proof in property cases); 25 U.S.C. Secs. 261-264 (regulation of traders); 25 U.S.C. Sec. 465 (acquisition of land in trust).

The more general notions of the "unique obligations" and "overriding duty" of fairness form a backdrop for the construction and interpretation of the statutes, treaties, and agreements respecting the Indians. This means that provisions for the benefit of Indians must be read to give full effect to their protective purposes and also they must be given a broad construction consistent with the trust relationship between the government and the Indians. General notions of fiduciary duties drawn from private trust law form appropriate guidelines for the conduct of executive branch officials in their discharge of responsibilities toward Indians and are properly utilized to fill any gaps in the statutory framework.

#### SPECIFIC OBLIGATIONS

The decided cases set forth a number of specific obligations of the trusteeship. Navajo Tribe v. United States, 364 F.2d 320 (Ct. Cl. 1966). During the second World War, an oil company had leased tribal land for oil and gas purposes. Upon discovering helium, bearing noncombustible gas which it had no desire to produce, the company assigned the lease to the Federal Bureau of Mines. The Bureau developed and produced the helium under the terms of the assigned lease instead of negotiating a new, more remunerative lease with the tribe. In Navajo, the court analogized these facts to the case of a "fiduciary who learns of an opportunity, prevents the beneficiary from getting it, and seizes it for himself," and held the action unlawful. Pyramid Lake discussed above also involves the fiduciary duty of loyalty.

Manchester Band of Pomo Indian v. United States, 363 F. Supp. 1238 N.D. Cal., 1973), holds that the government as trustee has a duty to make trust property income productive. The federal district court held, in that case, that officials of this Department had violated their trust obligations by failing to invest tribal funds in nontreasury accounts bearing higher interest than was paid by treasury accounts. Menominee Tribe v. United States, 101 Ct. Cls. 10 (1944), also enforces the fiduciary obligation to make trust property income productive.

Pyramid Lake Paiute Tribe v. Morton, 354 F. Supp. 252 (D.D.C. 1972), imposes on the United States the duty to enforce reasonable claims of the beneficiary. This duty may be seen as related to the duty of loyalty. In Pyramid Lake, the court rejected an accommodation of public interests and trust obligations and held that the Secretary of Interior had a higher obligation to protect Indian property rights than to advance public projects within his charge — again, absent an express direction from Congress. Where there is a dispute between Indians and other government interests, executive branch officials are required to favor the Indian claim so long as it is reasonable.

The Supreme Court has held that executive branch officials are not required to advance or accede to every colorable claim which may be suggested by an Indian tribe. United States v. Mason, 412 U.S. 39; (1973). It appears that the government may properly examine these claims critically and make a dispassionate analysis of their merit, it may consider whether the advancement of a particular claim is in the long term best interests of the Indians, and it may determine the timing and the forum in which a claim is advanced. But executive branch officials may not reject or postpone the assertion of a claim on behalf of Indians on the ground that it would be inimical to some other governmental or private interest or refuse to advance an Indian claim on the ground that it is merely "reasonable" as opposed to clearly "meritorious." Although trust duties are neither rigid nor absolute, the controlling principle is that executive branch officials must act in the best interests of the Indians.

The Supreme Court has held that the United States as trustee has some discretion to exercise reasonable judgment in choosing between alternative courses of action. United States v. Mason, 412 U.S. 391 (1973). In Mason, Indian allottees claimed that Bureau of Indian Affairs officials erred in paying state estate tax assessments on trust properties. Bureau officials relied on a prior decision of the Supreme Court which had sustained the particular taxes in question. With some plausibility, however, the allot-

tees claimed that subsequent Supreme Court decisions had eroded the vitality of the earlier case. The Court determined that in this instance the trustee had acted reasonably by paying the taxes without protest. In Mason, unlike Pyramid Lake, there was no suggestion that any conflicting interests had detracted from the trustee's duty of loyalty to the Indians, and the case stands for the proposition that in the nonconflict situation, the trustee's reasonable judgments will be sustained.

Another principle which follows from this reading of the Indian trust cases is that affirmative action is required by the trustee to preserve trust property, particularly where inaction results in default of trust rights. Cf., Poafybitty v. Skelly Oil Co., 390 U.S. 365, 369 (1968); Edwardsen v. Morton, 369 F. Supp. 1359 (D.D.C. 1973). The water rights area is a prime example. The Indians' rights to water pursuant to cases like Winters v. United States, 207 U.S. 564 (1908), and Arizona v. California, 373 U.S. 546 (1963), is prior to any subsequent appropriations. But failure of the trustee in the past to assert or protect these rights, and to assist in construction of Indian irrigation projects, has led non-Indian ranchers and farmers to invest large sums in land development in reliance on the seeming validity of their appropriations. See Report of the National Water Commission, ch. 14 (1973). The trust obligation would appear to require the trustee both to take vigorous affirmative action to assert or defend these Winters Doctrine claims. See, Pyramid Lake Paiute Tribe v. Morton, supra.

The impact of these principles upon the public administration within the government appears to be surprisingly modest, for present policies are essentially consistent with the dictates of the trust responsibility. In the area of water rights, for example, President Carter has called for the prompt quantification of Indian claims and their determination through negotiation if possible or litigation if necessary, and he has also called for development of Indian water resources projects so that the Indian rights may be put to beneficial use. The President's perception of the government's responsibility in this area appears entirely consistent with the dictates of the trust responsibility doctrine. The obligation of executive branch officials is to implement the President's policy. Similarly, the Departments of Interior and Justice are engaged in the process of enforcing reasonable Indian claims in some instances by negotiation and in others through litigation. The Bureau of Indian Affairs works to make trust property income productive and the present Secretary of the Interior, so far as we are aware, has taken no action inconsistent with his duty of loyalty to the Indians.



Even if the imposition of the trust responsibility doctrine is assumed to be completely consistent with present policy and administrative practice, the doctrine clearly places constraints on the future policy formulation and administrative discretion. Executive branch officials have some discretion in the discharge of the trust, but it is limited. For example, they may make a good faith determination that the compromise of an Indian claim is in the long term best interests of the Indians, but they are not free to abandon Indian interests or to subordinate those interests to competing policy considerations. Flexibility in setting policy objectives rests with Congress which alone is free to direct a taking or subordination of the otherwise paramount Indian interests.

Instances will surely arise where the discharge of trust responsibilities to the Indians raises unmanageable, practical or political difficulties for executive branch officials. It may be that congressional appropriations are inadequate to carry out a perceived duty -- say, the quantification of Indian water entitlements -- or that the enforcement of trust responsibilities results in an extraordinarily intense political backlash against the administration. Under such circumstances, it would seem that the responsibility of executive branch officials would be to seek express direction from the Congress. The existence of this congressional safety valve assures that the legal trust responsibility to American Indians is a viable doctrine not only now but in the future as well.

#### THE DEPARTMENT OF JUSTICE

The remainder of this memorandum will address some of the more specific questions which have been raised by the Attorney General in connection with litigation by the Department of Justice on behalf of Indians. How does Indian litigation differ, if at all, from other litigation handled by the Department of Justice? Do special standards constrain the prosecutorial discretion of the Attorney General?

By statute, the conduct of litigation in which the United States is a party is reserved to the officers of the Department of Justice under the direction of the Attorney General. 28 U.S.C. 516, 519. In addition, the United States Attorneys, under the direction of the Attorney General, are specifically authorized to represent Indians in all suits at law and in equity. 25 U.S.C. 175.

Generally, the Attorney General has broad discretion to determine whether and when to initiate litigation and on what theories. As the chief legal officer of the United States, the Attorney General may consider broad policy consequences of a litigation strategy and may refuse to initiate litigation despite the requests of a particular agency.



The discretion of the Attorney General with respect to the initiation of litigation is not unlimited. First, the exercise of prosecutorial discretion by the Attorney General is subject to judicial review in order to insure that the Attorney General's decision is based on a correct understanding of the law. Joint Tribal Council of the Passamaquoddy Tribe v. Morton, 388 F. Supp. 649, 665-666 (D. Me. 1975), aff'd, 528 F.2d 370 (1st Cir. 1975). Cf. e.g., Nader v. Saxbe, 497 F.2d 676, 679-680 n. 19 (D.C. Cir. 1974). And second, all executive branch officials including the Attorney General can be required by the judiciary to "faithfully execute the laws" which, in some instances, may require the initiation of litigation. E.g., Adams v. Richardson, 351 F. Supp. 636, 641 (D.D.C. 1972), 356 F. Supp. 921 (D.D.C. 1973), mod. and aff'd., 480 F.2d 1159 (D.C. Cir. 1973).

In the case of Indian litigation, the Attorney General's discretion is somewhat more limited than in other areas. As under the principles discussed above, an officer of the executive branch of government the Attorney General acts as a fiduciary and must accord the Indians a duty of loyalty. This means that in the exercise of discretion the Attorney General may not refuse to initiate litigation on the ground that it would be inimical to the welfare of some other governmental or private interest. And the Supreme Court has suggested that the Attorney General has an affirmative obligation to institute litigation on behalf of Indians. Poafybitty v. Skelly Oil, 390 U.S. 365, 369 (1968).

The Attorney General has no obligation to assert every claim or theory advanced by an Indian tribe without regard to its merit. At the same time, the Attorney General may not abandon reasonable Indian claims on any ground other than the best interests of the Indians. Further, in the exercise of discretion, the Attorney General must take care that litigation decisions do not undercut the efforts of the Secretary of Interior or other executive branch officials to discharge their trust responsibilities to the Indians. As the Supreme Court recently stated: "Where the responsibility for rendering a decision is vested in a coordinate branch of Government, the duty of the Department of Justice is to implement that decision and not repudiate it." S & E Contractors, Inc. v. United States, 406 U.S. 1, 13 (1972). Indeed, published opinions of the Attorney General reflect the great deference which has been accorded by the Department of Justice to the decisions of the Secretary of Interior. 25 Op. Atty. Gen. 524, 529 (1905); 20 Op. Atty. Gen. 711, 713 (1894); 17 Op. Atty. Gen. 332, 333 (1882).

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The fulfillment of this nation's trust responsibility to American Indians is one of the major missions of this Department. Both the President and the Vice-President have publicly stated their support of the trust responsibility as a matter of policy.

The definition of the government's trust responsibilities to Native Americans involves both legal and policy issues. The President's P.R.I.M. process is designed to assure development of policy after input from all concerned. It would be unfortunate to preempt this process by filing a memorandum in a court case that was not asked for by the judge and is not necessary to the litigation which will be moot if Congress and the tribes approve. If the Attorney General wants to address the legal issues regarding the trust responsibility, it would be more appropriate to do so through a formal Attorney General's opinion.

Sincerely,

**LEO M. KRULITZ**

SOLICITOR

PRESIDENT NIXON, SPECIAL MESSAGE ON INDIAN AFFAIRS  
JULY 8, 1970

*The new direction of Indian policy which aimed at Indian self-determination was set forth by President Richard Nixon in a special message to Congress in July 1970. Nixon condemned forced termination and proposed recommendations for specific action. His introduction and conclusion are printed here.*

*To the Congress of the United States:*

The first Americans - the Indians - are the most deprived and most isolated minority group in our nation. On virtually every scale of measurement - employment, income, education, health - the condition of the Indian people ranks at the bottom.

This condition is the heritage of centuries of injustice. From the time of their first contact with European settlers, the American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny. Even the Federal programs which are intended to meet their needs have frequently proved to be ineffective and demeaning.

But the story of the Indian in America is something more than the record of the white man's frequent aggression, broken agreements, intermittent remorse and prolonged failure. It is a record also of endurance, of survival, of adaptation and creativity in the face of overwhelming obstacles. It is a record of enormous contributions to this country - to its art and culture, to its strength and spirit, to its sense of history and its sense of purpose.

It is long past time that the Indian policies of the Federal government began to recognize and build upon the capacities and insights of the Indian people. Both as a matter of justice and as a matter of enlightened social policy, we must begin to act on the basis of what the Indians themselves have long been telling us. The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions.

SELF-DETERMINATION WITHOUT  
TERMINATION

The first and most basic question that must be answered with respect to Indian policy concerns the history and legal relationship between the Federal government and Indian communities. In the past, this relationship has oscillated between two equally harsh and unacceptable extremes.

On the other hand, it has - at various times

during previous Administrations - been the stated policy objective of both the Executive and Legislative branches of the Federal government eventually to terminate the trusteeship relationship between the Federal government and the Indian people. As recently as August of 1953, in House Concurrent Resolution 108, the Congress declared that termination was the long-range goal of its Indian policies. This would mean that Indian tribes would eventually lose any special standing they had under Federal law: the tax exempt status of their lands would be discontinued; Federal responsibility for their economic and social well-being would be repudiated; and the tribes themselves would be effectively dismantled. Tribal property would be divided among individual members who would then be assimilated into the society at large.

This policy of forced termination is wrong, in my judgment, for a number of reasons. First, the premises on which it rests are wrong. Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis whenever it sees fit. But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal government is the result instead of solemn obligations which have been entered into by the United States Government. Down through the years through written treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land and have accepted life on government reservations. In exchange, the government has agreed to provide community services such as health, education and public safety, services which would presumably allow Indian communities to enjoy a standard of living comparable to that of other Americans.

This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the Federal government which arises from these agreements continues to carry immense moral and legal force. To terminate this relationship would be no more

appropriate than to terminate the citizenship rights of any other American.

The second reason for rejecting forced termination is that the practical results have been clearly harmful in the few instances in which termination actually has been tried. The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal, State and local assistance efforts. Their economic and social condition has often been worse after termination than it was before.

The third argument I would make against forced termination concerns the effect it has had upon the overwhelming majority of tribes which still enjoy a special relationship with the Federal government. The very threat that this relationship may someday be ended has created a great deal of apprehension among Indian groups and this apprehension, in turn, has had a blighting effect on tribal progress. Any step that might result in greater social, economic or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the Federal government will disavow its responsibility and cut them adrift.

In short, the fear of one extreme policy, forced termination, has often worked to produce the opposite extreme: excessive dependence on the Federal government. In many cases this dependence is so great that the Indian community is almost entirely run by outsiders who are responsible and responsive to Federal officials in Washington, D.C., rather than to the communities they are supposed to be serving. This is the second of the two harsh approaches which have long plagued our Indian policies. Of the Department of Interior's programs directly serving Indians, for example, only 1.5 percent are presently under Indian control. Only 2.4 percent of HEW's Indian health programs are run by Indians. The result is a burgeoning Federal bureaucracy, programs which are far less effective than they ought to be, and an erosion of Indian initiative and morale.

I believe that both of these policy extremes are wrong. Federal termination errs in one direction, Federal paternalism errs in the other. Only by clearly rejecting both of these extremes can we achieve a policy which truly serves the best interests of the Indian people. Self-determination among the Indian people can and must be encouraged without the threat of

eventual termination. In my view, in fact, that is the only way that self-determination can effectively be fostered.

This, then, must be the goal of any new national policy toward the Indian people to strengthen the Indian's sense of autonomy without threatening this sense of community. We must assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group. And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support. My specific recommendations to the Congress are designed to carry out this policy....

The recommendations of this administration represent an historic step forward in Indian policy. We are proposing to break sharply with past approaches to Indian problems. In place of a long series of piecemeal reforms, we suggest a new and coherent strategy. In place of policies which simply call for more spending, we suggest policies which call for wiser spending. In place of policies which oscillate between the deadly extremes of forced termination and constant paternalism, we suggest a policy in which the Federal government and the Indian community play complementary roles.

But most importantly, we have turned from the question of *whether* the Federal government has a responsibility to Indians to the question of *how* that responsibility can best be furthered. We have concluded that the Indians will get better programs and that public monies will be more effectively expended if the people who are most affected by these programs are responsible for operating them.

The Indians of America need Federal assistance – this much has long been clear. What has not always been clear, however, is that the Federal government needs Indian energies and Indian leadership if its assistance is to be effective in improving the conditions of Indian life. It is a new and balanced relationship between the United States government and the first Americans that is at the heart of our approach to Indian problems. And that is why we now approach these problems with new confidence that they will successfully be overcome.

[*Public Papers of the Presidents of the United States: Richard Nixon, 1970, pp. 564-567, 576-76.*]





*"We have a sacred responsibility to provide for the overall health and well-being of our respective nations and citizens. This is a responsibility we hold not just to our ancestors, but also to those Tribal citizens we have yet to meet. Utilizing USET's founding mission of Strength in Unity, together we endeavor to rebuild our Tribal Nations and strive to overcome the past unjust policies of the United States. Using the principles of Tribal sovereignty and self-determination, we continue to develop our path to prosperity and stability which will allow our Tribal Nations to thrive now and in the future."*

*-USET/USET SPF Executive Officers*



# **USET PROGRAMS & SERVICES**





## PROGRAMS & SERVICES

United South and Eastern Tribes (USET), a 501c3 inter-tribal organization, has championed the interests of its membership, which has grown to 27 Tribal Nations, since its inception in 1969. Since its beginning, USET has provided a platform for Tribal Nations to unify and collectively work to uphold, protect, and advance their inherent sovereign interests and authorities. Ultimately, improving the quality of life for Tribal Nation citizens across our region, and throughout Indian country, has been the central goal for USET. Today, USET serves as the vehicle to provide programmatic services and support to its membership.

Its motto of *Because there is Strength in Unity* serves as its core guiding principle for the organization and its actions. It presents a value proposition that offers strategic advantage to its membership. This advantage manifests in direct service provision, capacity building through training and professional development, and organization development. Today, the organization's core programmatic competencies are Tribal Health Program Support (THPS), Office of Environmental Resource Management (OERM), and Economic Development (ED). These core programmatic competencies assist its members by working to uphold, protect, and advance their Tribal Nation sovereignty and Nation rebuilding efforts through capacity building, organization/government development, technical assistance, advocacy, partnership, and resource development that improves the quality of life and overall wellbeing of Indian people.

Three primary service objectives have been defined to advance USET's five-year strategic agenda (FY2017-FY2021).

**1. Nation Rebuilding-** Support Nation rebuilding that leads to strong Tribal governments, a healthy society, rich cultural practices, an educated populous, abundant natural resources, capital investment, and economic and social sustainability.

**2. Uphold, Protect, and Advance Sovereignty-** Uphold, promote, and advance sovereignty that leads to recognition and parity across governments by

advocating and educating Tribal Nations, their citizens, the federal government, strategic partners, and other key stakeholders; upholding the terms and conditions of existing treaties, achieving representation that gives Tribal Nations equal voice, and protecting Tribal interests through the development of strong Tribal legal code as dictated by the Constitution, Commerce Clause, Treaties, and other legally binding agreements made with Tribal Nations.

**3. Leadership Development-** Develop strong, competent, and passionate leaders, especially generational leadership, who represent Tribal Nations' interests as board members, Tribally selected officials, and committee chairpersons, as well as leaders in organizations and communities, to deliver a strong voice and ensure the health, wellbeing, and self-determination of future generations.

*"Vision without action is merely a dream. Action without vision just passes the time. Vision with action can change the world."*

-Joel Barker

USET's strategic goals to advance Tribal sovereignty and realize self-determination for its member Tribal Nations, coupled with the purpose of its programs and services, are grounded in Native culture and heritage, and consider the impact to the entire community ecosystem. Culture and heritage, as well as effect on youth and future generations, provide an overarching guide to shaping USET's programs and services.

As the needs of the corporation's membership have evolved and matured, the corporation has necessarily also evolved and matured in a similar manner to ensure that the level of services and support generated provide "value add" to its membership.

## PROGRAMS AND SERVICES TIMELINE

USET Health Information Office created (2 staff)	1995		
		2000	USET Tribal Epidemiology Center established
USET Diabetes Program established	2002		
		2002	Health Information Office changes name to Tribal Health Program Support (THPS)
GPRA Pilot Project created	2003		
		2004	Office of Environmental Resource Management established
USET Dental Support Center created	2005		
		2013	Health Data Portal created
Good Health and Wellness in Indian Country grant awarded from the Centers for Disease Control and Prevention (CDC)	2014		
		2015	Office of Economic Development established
USET Opioid Taskforce established	2016		
		2018	Tribal Epidemiology Center Public Health Infrastructure grant awarded from CDC
Substance Abuse Strategic Prevention Framework Partnership Grant awarded from the Substance Abuse and Mental Health Services Administration	2018		
		2018	Opioid Crisis Supplement grant awarded from CDC
Community Development Financial Institution established	2018		
		2019	USET has 36 program staff

# TRIBAL HEALTH PROGRAM SUPPORT

The USET Tribal Health Program Support (THPS) Department, originally the Health Information Office, was created in 1995 to assist Tribal Nations in addressing their health needs. THPS provides up-to-date health information and advocacy tools, policy analysis, and new program opportunities. THPS has grown and evolved in scope to include the administration of several grant programs on behalf of USET Tribal Nations including the Tribal Epidemiology Center, Diabetes Program, Dental Support Center, the Good Health and Wellness in Indian Country grant, the Tribal Epidemiology Center Public Health Infrastructure grant, and substance abuse and mental health programs.

## IHS 638 Contract

Through a 638 contract with IHS initiated in 1995, USET's THPS department was given its roots to grow. USET administers programs, functions, services and activities engaging the Health Information Office (HIO), Office of Tribal Activities (OTA), Diabetes Control Officer (DCO) and Nutrition Program. As a contractor, USET provides health information to member Tribal Nation Health Directors that includes a compilation and review of health data as well as legislative and policy changes that may affect the provision of health services to the service population. Administrative support services and technical assistance in the development of new approaches in health care delivery (GPRA, diabetes education, etc.) are provided as well as seminars and workshops specifically related to public health issues.

Additionally, USET contracts to provide leadership, direction, consultation and expertise in planning, developing, implementing and evaluating the programs, assisting member Tribal Nations with consultation efforts and providing site visits to review, assess and assist in the development of Tribal health-related programs. By using expert professional nursing, educator, nutrition, and health disparities knowledge and skills to provide consultation, guidance, training, education, and technical assistance to other Area programs, member Tribal Nations, and the IHS, USET formulates and recommends policies, procedures and plans to establish and improve resources and services for individual Tribal health care delivery systems.

Providing the highest level of health care services to USET member Tribal Nations is crucial and USET delivers many services such as:

- Consultative services to coordinators including grantees and other health care professionals. Comprehensive prevention/treatment/self-management, establishment and maintenance of health registries, the establishment and function of health care teams, the use of the RPMS system in optimal assessment and documentation of health care, and technical assistance for Tribal health audits.
- Conducting evaluations of health education programs and assists Tribal health coordinators in planning/ conducting meetings, continuing education, reviewing/ evaluating grant applications and reports.
- Assisting Tribal medical directors with recommended training for new medical staff in the prevention/ treatment/management of health issues.
- Providing professional education on diet, nutrition and exercise programs, treatment regimens, and measures designed to prevent health complications.
- Technical assistance for grant applications from the IHS Programs and/or any other funding sources for which USET member Tribal Nations are eligible.

## Tribal Epidemiology Center

In 1996, the Indian Health Care Improvement Act (IHCIA) authorized the establishment of Tribal Epidemiology Centers (TEC) to serve each Indian Health Service (IHS) area. However, it wasn't until 2006 that IHS provided funding to establish a TEC for each area. In 2010, the reauthorization of the IHCIA designated TECs as public health authorities and authorized TECs access to data held by the U.S. Department of Health and Human Services. The reauthorization also defined the seven core functions of TECs:

1. Collect data.
2. Evaluate data and programs.
3. Identify health priorities with Tribal Nations.
4. Make recommendations for health service needs.
5. Make recommendations for improving health care delivery systems.
6. Provide epidemiologic technical assistance to Tribal Nations and Tribal organizations.
7. Provide disease surveillance to Tribal Nations.



In accordance with the seven core functions, the USET TEC monitors and reports on the health status of Tribal citizens to reduce disease and improve wellness. The TEC strives to improve quality of life by evaluating Tribal health data, monitoring health trends, providing technical assistance about data collection, analyzing population health data, and supporting initiatives that promote health. USET's TEC is one of 12 TECs established by IHS. As a designated Public Health Authority (P.L. 94-437 through the Health Insurance Portability and Accountability Act [HIPAA]), the TEC supports USET Tribal Nations in improving the health of American Indians and Alaska Native (AI/AN) communities. TEC projects include:

#### GPRA Pilot Project

The Government Performance and Results Act (GPRA) requires federal agencies to demonstrate that they are using their funds effectively toward meeting their missions. The law requires agencies to have both a 5-year Strategic Plan in place and to submit Annual Performance Plans describing specifically what the agency intends to accomplish toward those goals with their annual budget request. GPRA also requires agencies to have performance measures with specific annual targets. Every year, IHS reports results for these GPRA performance measures.

GPRA measures for IHS include clinical care performance measures, such as care for patients with diabetes, cancer screening, immunization, behavioral health screening, and other prevention measures. The agency also reports many non-clinical measures, including rates of hospital accreditation, injury prevention, and infrastructure improvements.

The USET GPRA Pilot Project assists USET Tribal clinics in meeting the annual targets of GPRA measures that have been dictated by IHS. USET staff provide training and guidance to clinic staff on meeting the GPRA targets, including proper documentation of healthcare visits, efficient clinic workflow, and utilizing reporting features in the electronic health record. USET staff also work with state immunization registries to ensure that immunizations provided to patients at external clinics have been entered into the electronic health record, which assists providers in case management and assists clinics in meeting annual targets of the immunization GPRA measures.

#### Health Data Portal

With support from the Office of Minority Health, the TEC has developed a population health data portal to assist USET member Tribal Nations in monitoring the health status of Tribal citizens and identifying health disparities in AI/AN communities. The project:

- Evaluates the percentage of health indicators meeting benchmarks suggested by IHS and Healthy People 2020; and

- Encourages data-driven decision making.

By having health data readily available in a secure location, the Data Portal assists Health Directors in identifying high priority objectives and services needed to achieve those objectives. The Data Portal allows Health Directors to generate customized reports specific to their Tribal service populations, as well as standardized community highlight reports in order to better understand and plan for their Tribal community needs.

*"Intergenerational trauma is a reality and an unfortunate truth. However, the intergenerational resiliency demonstrated by Indian country is a reflection of our overall strength and it is the answer to our overall health, well-being, and continued long term survival."*

-Chief Lynn Malerba, Mohegan Tribe of Connecticut

#### **Diabetes Program**

IHS has a program specifically tailored to Tribal communities called the Special Diabetes Program for Indians, also known as SDPI. SDPI was created by Congress in 1997 to combat the steadily increasing rate of diabetes in AI/ANs. SDPI provides grants to more than 300 IHS, Tribal, and urban programs to prevent, educate, and treat the high prevalence of diabetes seen in Tribal Nations throughout the country. The mission of the program is to provide diabetes treatment and prevention services to AI/ANs.

A distinguishing feature of the SDPI program is that it allows for community members to obtain knowledge and help from people with which they can personally identify. The culture, history, and traditions of the Tribal Nations are well integrated into the program's activities.

Outreach efforts include providing training and health services in both traditional and non-traditional settings. An example of a traditional setting would be the clinic. A clinic visit may include an appointment with the ophthalmologist and the podiatrist. An example of a non-traditional setting would be a training offered in a local community center or gymnasium. Sessions that are held in the community are generally led by a diabetes coordinator and other SDPI staff members. These sessions cover topics that include practical approaches to making healthier food choices and preparing healthier meals. Tribal citizens often share stories and lessons learned that can empower and motivate others to take control of their diabetes.

The problems associated with diabetes have been clearly identified and documented over time. Diabetes disproportionately affects AI/ANs, but the SDPI program is making a positive impact. The program strives to build on its successful efforts to deliver practical and culturally sensitive approaches to diabetes self-management. Through the SDPI grant program, AI/AN communities have been able to develop much needed diabetes programs and increase access to quality diabetes care.

### **Dental Support Center**

With funding from IHS, USET provides training and technical assistance for the dental clinics located at Tribal Nations. The primary goal of the Dental Support Center (DSC) is to improve access to quality clinical and preventive dental services for Tribal citizens. General program areas include support for clinical dental services, health promotion/disease prevention activities, resource enhancement, and professional development. USET's DSC follows guidelines established by dental and public health professional organizations.

Specific services offered by the DSC include:

- On-site comprehensive dental clinic reviews.
- Consultations for specific program areas such as quality improvement or clinical efficiency.
- Community dentistry program development.
- Funding for small oral health promotion programs.
- Training for non-dental personnel on oral health issues.

Resources available:

- Community dental prevention plan templates.
- Health Promotion/Disease Prevention Program Planning Guidebook.
- Forms for clinical services.
- Educational presentations.

### **Good Health and Wellness in Indian Country**

Historically, AI/ANs experience higher rates of health disparities in chronic disease, injury, and premature death than other populations in the United States. In Indian country, limited access to clinical care and insufficient public health infrastructure causes an increased risk of secondary conditions and co-morbidities.

In 2014, USET was awarded a Good Health and Wellness in Indian Country (GHWIC) five-year cooperative agreement from the Centers for Disease Control and Prevention (CDC). The project afforded the opportunity for USET to select seven Tribal Nations through a competitive process to establish, strengthen, and broaden the reach and impact of effective and sustainable chronic disease promotion and prevention programs that improve the

health of Tribal citizens and communities.

The long-term goals of the GHWIC project are to reduce rates of death and disability from commercial tobacco use, diabetes, heart disease and stroke, and reduce the prevalence of obesity and other chronic disease risk factors and conditions. GHWIC supports a holistic approach to healthy living and chronic disease prevention by building public health capacity and infrastructure in Indian country for disease surveillance in epidemiology, prevention and the control of disease.

### **Tribal Epidemiology Center Public Health Infrastructure**

AI/ANs experience higher rates of health disparities in chronic disease, injury, and premature death than other populations in the U.S. In Indian country, limited access to clinical care and insufficient public health infrastructure causes an increased risk of secondary conditions and co-morbidities. Tribal public health capacity and infrastructure are under-resourced and insufficient to address these disparities and improve health outcomes.

Funded by the CDC, the USET Tribal Epidemiology Center Public Health Infrastructure project is designed to build upon existing Tribal Nation public health infrastructure to reduce chronic diseases, risk factors, disparities in health outcomes, and strive to improve the health of all USET member Tribal Nations. The project addresses the Healthy People 2020 focus areas of diabetes; heart disease and stroke; nutrition and weight status; physical activity; adolescent health; and maternal and child health to create culturally relevant social and physical environments that encourage and support improved infrastructure that is culturally-driven based on the needs of AI/AN communities.

While some Tribal Nations have programs that target the prevention and control of chronic diseases, all USET member Tribal Nations are lacking in public health infrastructure due to lack of funds and/or lack of federal/state/county partnerships. Through this project, USET will further develop the staffing and capacity of its own TEC. In turn, USET will provide additional technical and financial support to Tribal partners to build upon their strengths to increase capacity. The overarching goals are to improve public health infrastructure to decrease early mortality and morbidity and improve the overall quality of life for Tribal citizens.

### **Substance Abuse and Mental Health Programs:**

#### Substance Abuse Strategic Prevention Framework Partnership

AI/AN populations have experienced devastating, intergenerational trauma and compounding discrimination, racism, and oppression. These historical



traumas are believed to contribute to long-term distress and substance abuse among AI/AN communities.

Through a five-year grant from the Substance Abuse and Mental Health Services Administration (SAMHSA), USET is expanding efforts to build capacity and to address historical trauma as it relates to alcohol use in children ages 9 to 20. The project is utilizing a two-pronged strategy: 1) improving behavioral health data quality and availability and 2) using the improved data to inform policies, programs, and practices to reduce alcohol and substance abuse in youth and strengthen community education and prevention programs. Through this project, USET is creating and improving behavioral health data infrastructure and documentation that can be used to readily identify behavioral health gaps, needs, and priorities. Simultaneously, the project is supporting USET member Tribal Nations in improving their capacity to prevent underage alcohol use and substance abuse through evidence-based programs, policies, and practices.

#### Opioid Taskforce

The multidisciplinary focused advisory group provides direction and input on substance abuse/misuse prevention and treatment. This group is comprised of stakeholders from an array of professions and includes Tribal Leaders and individuals from areas such as public health, social services, criminal justice, and education.

The advisory group promotes data improvement and sustainability of prevention programs at the Tribal level.

#### Opioid Data Improvement

Tribal Nation-specific opioid overdose data is very limited, which makes program planning for opioid overdose prevention difficult. The exact rate of overdoses is unknown due to the lack of data in AI/AN communities. Furthermore, data related to the type of substances is unknown. When data is present, it is at a state level, and not generalizable to Tribal communities. Typically, data from providers outside of the Tribal Nation is not reported back to the Tribal Nation Health Department. This data is often lost or subjected to misclassification. Due to small population numbers, statistics are often suppressed or grouped into the “other” category. Therefore, statistics from national surveys do not reflect the IHS Nashville Area population. Through a cooperative agreement with the CDC, USET is working to improve data quality and availability, which will allow for better informed policies, programs, and practices that support opioid overdose prevention programs.



# OFFICE OF ENVIRONMENTAL RESOURCE MANAGEMENT

Initially established as the Environmental Liaison Office in 2004, the Office of Environmental Resource Management (OERM) has evolved and expanded across a wide array of program areas including natural resource protection; endangered species; environmental regulatory development; climate adaptation and resilience; risk assessment and solutions modeling; renewable energy; agriculture; community drinking water and wastewater systems; operator training and certification; and historic and cultural resource protection.

OERM provides USET member Tribal Nations with technical assistance, training, logistical support, professional certifications, regulatory support, and coordination and communication across a spectrum of program areas.

OERM advocates for self-determination and greater Tribal control of natural resources, while also promoting conservation, protection, and preservation of Tribal communities and homelands. Working closely with the USET Natural Resources Committee, USET Certification Board, and partnering with Tribal organizations, Tribal colleges and universities, federal agencies, and other entities OERM supports the protection of Tribal natural resources and improving the overall health and well-being of Tribal communities.

## **Drinking Water and Wastewater Technical Assistance and Training**

The Drinking Water and Wastewater Technical Assistance and Training (TAT) program is designed to provide member Tribal Nations' leaders, utility board members, operators, and laboratory analysts with onsite visits and classroom training offered in their respective facilities or in regional settings by OERM technical assistance specialists. Technical assistance specialists provide comprehensive training in technical, financial, and managerial aspects of Tribal utilities and through peer reviews and mentoring by other Tribal utility professionals.

OERM is nationally recognized for its drinking water and wastewater certification program, becoming the first Tribal organization to be approved by the U.S. Environmental Protection Agency; and further for

environmental program expertise, especially related to the Safe Drinking Water and Clean Water Acts.

## **USET Certification Program**

The USET Certification Program was established to promote Tribal sovereignty through Tribally issued certifications. This program offers certifications for drinking water, wastewater, laboratory analysts, water distribution, and wastewater collection. With the leadership of the USET Certification Board, active participation of Tribal utilities, and with USET staff support, this program was the first Tribal organization to have an EPA approved Tribal Drinking Water Certification Program. USET member Tribal Nations and USET staff have worked together to provide the training and support to carry out the important work that is so vital to Tribal communities. With established, secure infrastructure and well-managed water utilities, Tribal communities are stronger and healthier. When Tribal drinking water and wastewater operators obtain certifications through their own Tribal program, Tribal sovereignty is advanced and upheld. USET has provided more than 65 operators with certifications.

## **Tribal Utility Summit**

OERM has convened an annual Tribal Utility Summit (TUS) for the past ten years. The TUS is a collaborative partnership with HHS Rural Community Development; U.S. Environmental Protection Agency Regions 1, 2, and 4; USDA Rural Development; Indian Health Service Nashville Area Office; and Tribal partners including USET member Tribal Nations and the Inter-Tribal Council of Arizona. In the past ten years, the TUS has brought together over 1,000 attendees who traveled to nine different locations hosted by eight member USET Tribal Nations.

This annual event offers the best information and available training and technical assistance to utility managers, operators, and laboratory analysts to meet their regulatory requirements, but most importantly to assist with providing safe, clean, and adequate water to their respective Tribal communities. The TUS curriculum covers topics that address technical, managerial, and financial aspects of utility systems; and the sessions



include program funding and regulatory updates; operations and maintenance; safety; water math; troubleshooting; water reuse options; disaster management; distribution systems; leadership development, and much more. The TUS curriculum provides educational opportunities from which CEUs or contact hours can be obtained. An annual Tribal Drinking Water Contest is also held.

## **Tribal Climate Resilience**

OERM is actively engaged in supporting member Tribal Nations to assess and adapt to climate change impacts.

The 4th National Climate Assessment (2018) includes findings and specific references to Indigenous Peoples, such as: “climate change increasingly threatens Indigenous communities’ livelihoods, economies, health and cultural identities by disrupting interconnected social, physical, and ecological systems.” And the Summary Findings further acknowledge that “many Indigenous peoples are taking steps to adapt to climate change impacts structured around self-determination and traditional knowledge, and some [Tribal Nations] are pursuing mitigation actions through development of renewable energy on Tribal lands.”

The OERM climate program is primarily funded by the Bureau of Indian Affairs Tribal Resilience Program, and is designed to carry out functions such as:

1. Performing collaboration and liaison activities to include research for Tribal climate change adaptation issues and technical science extension; and conducting field visits to Tribal and BIA trust managers who may need advice and access to climate data and tools in order to incorporate climate change considerations into leadership and management decisions for improved climate preparedness and resilience.
2. Providing technical support to Tribal Nations through the Tribal Liaison, which include:
  - Identifying Tribal science needs.
  - Identifying and addressing climate needs related to understudied resources of high cultural value to Tribal



- Nations and traditional knowledge.
  - Ensuring appropriate traditional knowledge guidelines are followed (including appropriate data sharing agreements and data security).
  - Improving climate adaptation planning support.
  - Supporting retreats and venues to develop and write climate adaptation plans.
  - Providing review and feedback on Tribal vulnerability assessment and adaptation plan drafts.
  - Participating in forums to address regional training needs.
  - Improving coordination of federal agencies to support Tribal climate adaptation efforts.
  - Ensuring that Tribal professional staff are aware of funding opportunities, trainings, and resources to support climate adaptation efforts.
3. Convene a Climate Resilience Summit to engage Tribal leadership, and professional staff in building resilience to extreme events and harmful environmental trends impacting USET member Tribal Nations.



## Tribal-FERST

The Tribal Focused Environmental Risk and Sustainability Tool (Tribal-FERST) project is a collaborative research and development partnership involving the Bureau of Indian Affairs, U.S. Environmental Protection Agency (EPA), and United South and Eastern Tribes, Inc. (USET). This collaborative effort will build Tribal capacity by addressing Tribal environmental problems and informing decisions to achieve sustainable and healthy communities.

The overall objective is to customize the Community-Focused Environmental Risk Sustainability Tool, which was developed by the U.S. Environmental Protection Agency, and to create a web-based, geospatial decision tool whose purpose is to assist Tribal Nations in determining environmental risks and evaluating actions to achieve sustainability for protection of the environment and public health. Tribal-FERST is designed to be a user-friendly, science-based tool that Tribal Nations can subscribe, adopt and input their data in a secure platform to assess sustainable solutions to environmental risks.

*“Our lands and natural resources hold special meaning within our cultures and identities. Not only are they critical to the survival of our nations, they are central to our creation stories, and like our ancestors, we hold an unassailable responsibility to protect and sustain healthy ecosystems as stewards of these lands. As we rebuild our nations, gain greater control of our resources, and advance our sovereignty, we are reaffirming our rightful place across these lands by leading with our traditional knowledge and practices that have sustained us since time immemorial and that will serve us for many generations to come.”*

-Chief Beverly Cook, Saint Regis Mohawk Tribe

USET will host and maintain the web-based tool. OERM staff have been collecting data from several Tribal Nations that will be used in case studies and presented in a story telling methodology for educational purposes. Regional training workshops will be conducted by OERM along with the development of an instructional video and a printed booklet to assist Tribal Nations in adopting and using the Tribal-FERST tool.

## Wetlands Protection

Wetlands are critical habitat and encompass significant cultural, traditional, spiritual, medicinal, sustenance, and subsistence uses for Tribal Nations. OERM will deliver comprehensive and diverse training, technical assistance, and site visits to USET member Tribal Nations to develop sustainable Wetland Program Plans, including Clean Water Act provisions, and wetlands assessment and monitoring, resulting in protection, enhancement, and restoration of wetlands on Tribal lands.

## OFFICE OF ECONOMIC DEVELOPMENT

A Tribal Nation's ability to exercise and promote its sovereignty and self-determination is tied, in part, to the economic wellbeing of its people. Many Tribal Nations are rich with assets but lack the capacity to convert those assets to scalable economic development. Limited resources, geographic isolation from viable markets, poor or non-existent economic development planning, and a disconnection to the established infrastructure to foster economic growth adversely impacts Tribal economic development efforts. In order to succeed in Tribal Nation rebuilding, viable economies need to be established and sustained that attract capital investment, create quality jobs, and develop strong Native businesses. USET's initiatives for economic development are aligned with President Obama's vision for Indian Country: "I believe that one day, we're going to be able to look back on these years and say that this was a turning point. This was the moment when we began to build a strong middle class in Indian Country; the moment when businesses, large and small, began opening up in reservations; the moment when we stopped repeating the mistakes of the past, and began building a better future together, one that honors old traditions and welcomes every Native American into the American Dream."

"Growing Economies in Indian Country," a 2012 report published by the Board of Governors of the Federal Reserve System, outlined eight issues as fundamental challenges to realizing economic growth in Indian country. USET member Tribal Nations, with few exceptions, face these same challenges:

1. Insufficient access to capital.
2. Capacity and capital constraints of small business.
3. Insufficient workforce development; financial management training; and business education.
4. Tribal governance constraints.
5. Regulatory constraints on land held in trust and land designated as restricted use.
6. Underdeveloped physical infrastructure.
7. Insufficient research and data.
8. Lack of regional collaboration.

Recognizing USET member Tribal Nations are at varying levels of capacity and development, there are overarching challenges that impact economic development. The complexity of the establishment and implementation of tax codes and fees, as well as associated business

incentives, present significant barriers for Tribal Nations to fully exercise their sovereignty. Compounding this challenge is the limited capacity within individual USET member Tribal Nations and the lack of Tribal-level comprehensive economic development strategies. The lack of development strategies prevents sustained economic development, minimizes capital investment, and hampers the creation of quality jobs that impact cultural, social, and economic conditions necessary to strengthen Tribal sovereignty, realize self-determination, and achieve Tribal Nation rebuilding.

In 2015 the USET Board of Directors charged USET to expand the technical assistance opportunities to new subject areas. This direction led to the build out of a new economic development core competency. Through support from the Economic Development Administration, a survey of current and future Tribal Nation economic development needs and opportunities led to the creation of a comprehensive economic development strategy that provides a road map to delivery of quality economic development support at a regional level. USET and its partners have established a strong foundation to adopt and develop sound economic development programs and services that will transform the quality of life on Tribal lands, while fully recognizing the unique challenges facing Tribal economies.

To help overcome the historic trauma and challenges preventing Tribal Nations from developing healthy and vibrant economies, USET's Office of Economic Development strives to promote business development, employment, and infrastructure of its 27-member Tribal Nations. USET is striving to create a robust network of partners and collaborators to create a formal regional economic development core competency. USET Economic Development works with these partners to assist in establishing anticipated resources and services that are needed to begin the process of rebuilding or promoting a Tribal Nation's capacity to richly engage in economic development activities.

The lack of accurate, current, and reliable data on USET member Tribal Nations affects the ability to access certain federal programs, grants, and services. USET is working to collect sound sociodemographic data to create community profiles that will not only increase access to federal programs but will also attempt to





remove the cloak of invisibility that plagues many Tribal Nations. Fundamental to this work is incorporating data sovereignty methodologies to ensure that data is being gathered by and for Tribal Nations, therefore strengthening self-determination and sovereignty.

*"Our steadfast determination to strengthen our nation and to improve the lives of our citizens is the motivation that has allowed us to make significant positive economic progress and impact in and around our communities. While we will always work hard to ensure that the United States honors and fulfills its trust and treaty obligations, we recognize that our nation and people will not advance if that is our singular approach. By taking proactive measures, we are building a stronger nation that offers more opportunities and hope to our citizens. When our Tribal Nations fully exert and implement their inherent sovereign rights and authorities over their lands, economy, and future, we will collectively ensure the growth and survival of our people for generations to come."*

-Chairman Marshall Pierite, Tunica Biloxi Tribe of Louisiana

The groundbreaking "Reclaiming Native Truth" project and subsequent report reveals a new understanding of public perceptions and dominant narratives that impact Native peoples within American society. The myths and misconception discovered in the research also extends to economic development opportunities of Tribal Nations in the USET region. As a solution to help combat these economic misconceptions, USET publishes a Tribal enterprise directory. The Directory illustrates a broad breadth of economic development opportunities of USET member Tribal Nations across industry sectors. The Directory will lead to new business opportunities and to intertribal and nation-to-nation trade through procurement and business partnerships. Building economic opportunities through nation-to-nation trade will encourage the number of times dollars circulate in Tribal communities and allow for strong economies to take root in Tribal communities.

The U.S. Department of Treasury released the "Access to Capital and Credit in Native Communities Report," a follow up to their 2001 Native American Lending Study; both reports detailed barriers Tribal Nations with lack of access to capital and opportunities for improving credit in Native communities must overcome. To help mitigate this need, USET has worked to build a USET Community Development Financial Institution (CDFI) as part of its economic development core competency efforts. USET CDFI has been working to capitalize a loan fund and develop policies to support economic and community projects seeking support and capital.





*"Tribal sovereignty is our inherent right to control [our] own affairs free from external forces that seek to impose upon our autonomy...without it, we lose the ability to govern ourselves...without [it], we cannot protect our homelands. The defense of the sovereignty of Tribal Nations is by far the most important issue in Indian country today. It is imperative that we preserve and grow our Tribal sovereignty to [protect] our culture, language, education, and economic development...we have and always will exist."*

*-Excerpts from the 2018 and 2019 USET-Close Up Youth Statements on Tribal Nation Sovereignty*



# **USET SOVEREIGNTY PROTECTION FUND POLICY & LEGISLATIVE PRIORITIES**





## POLICY AND LEGISLATIVE OVERVIEW

In October 2014, USET received approval from the Internal Revenue Service to form a 501c4 not-for-profit sister organization—the USET Sovereignty Protection Fund (SPF). USET SPF continues to provide strong advocacy for member Tribal Nations within all branches of the federal government. USET SPF strives to protect, promote, and advance our inherent sovereign rights, and to elevate the voices of Tribal Nations in our region at the federal level.

### Refuting Constitutional Challenges

USET SPF has consistently advocated around the issue of constitutionality with all branches of government. Undermining the constitutionality of programs, laws, spending, and exemptions specific to AI/AN and Tribal Nations flies in the face of well-settled law that defines our relationship with the United States as political in nature and not one based on race. Indian country must remain vigilant and continue to challenge and oppose any efforts within the federal government—Executive, Legislative, and Judicial—that seek to undermine the constitutionality of our relationship.

This fundamentally flawed narrative, if allowed to go unchallenged, has the potential to erode the very foundation of Tribal Nation-U.S., government-to-government, sovereign-to-sovereign relations. It is critically important that all of Indian country recognize and appreciate the magnitude of this current challenge and its potentially broader implications. USET SPF continues to partner with other Tribal organizations, both national and regional, in order to ensure a strong, coordinated message from Indian country, both for the short and long term. Together, we are working to ensure that the strong legal basis of our relationship with the United States is the focus of our argument.

### Restoration of Tribal Homelands

USET SPF Tribal Nations continue to work to reacquire our homelands, which are fundamental to our existence as sovereign governments and our ability to thrive as vibrant, healthy, self-sufficient communities. In fulfillment of the trust responsibility and obligations to our Nations, the federal government must support

healthy and sustainable self-determining Tribal governments, which fundamentally includes the restoration of lands to all federally-recognized Tribal Nations, as well as the legal defense of these land acquisitions.

While USET SPF member Tribal Nations ultimately seek full jurisdiction and management over our homelands without federal government interference and oversight, we recognize the critical importance of the restoration of our land bases through the land-into-trust process. We further recognize that the federal government has a trust responsibility and obligation to Tribal Nations in the restoration and management of trust lands. With this in mind, it is vital that the land-into-trust process be available to and applied equally to all federally-recognized Tribal Nations.

USET SPF has been advocating for a fix to the Supreme Court decision in *Carcieri v. Salazar*, since it was handed down in 2009. *Carcieri* has created a deeply inequitable 2-class system, in which some Tribal Nations have the ability to restore their homelands and others do not. This 2-class system serves to deny these Tribal Nations a critical component of the trust relationship, vital aspects of the exercise of inherent sovereignty, and the opportunity to qualify for several government programs. USET SPF continues to call for the immediate passage of a fix that contains the two features necessary to restore parity to the land-into-trust process: (1) a reaffirmation of the status of current trust lands; and (2) confirmation that the Secretary has authority to take land into trust for all federally recognized Tribal Nations.

### The Federal Budget

As USET SPF continues its advocacy for the fulfillment of the federal trust responsibility and obligations, this includes full funding for federal Indian programs. Because of our history and unique relationship with the United States, the trust obligation of the federal government to Native peoples, as reflected in the federal budget, is fundamentally different from ordinary discretionary spending and should be considered mandatory in nature. Inadequate funding to Indian country needs to be viewed as unfilled treaty and trust obligations and should not be vulnerable to year to year

“discretionary” decisions by appropriators. Federal spending in fulfillment of trust and treaty obligations is not responsible for the federal deficit and must be held harmless as our nation seeks to reduce its debt. USET SPF envisions a future in which federal funding to Tribal Nations is no longer a discretionary choice and all dollars are contractable and compactable.

## **Economic Development**

Economic sovereignty is essential to Indian country’s ability to be self-determining and self-sufficient. Rebuilding our Tribal Nations includes rebuilding our Tribal economies as a core foundation of healthy and productive communities. USET SPF has identified and seeks action on a number of barriers to economic development in Indian country, including access to capital, lack of parity in the tax code, and the indeterminate status of trust lands.

## **Taxation**

USET SPF remains focused on the advancement of tax reform that would address inequities in the tax code and eliminate state dual taxation. Revenue generated within Indian country continues to be taken outside its borders or otherwise falls victim to a lack of parity. Similarly, Tribal governments continue to lack many of the same benefits and flexibility offered to other units of government under the tax code. Passage of comprehensive tax reform in late 2017 without Tribal provisions was unacceptable. USET SPF continues to press Congress for changes to the U.S. tax code that would provide governmental parity and economic development to Tribal Nations.

## **Advancing Tribal Health**

Indian country, including the citizens of USET SPF Tribal Nations, suffers from lower health status and lower health outcomes than the rest of the United States. As long as the Indian Health Service (IHS) is drastically underfunded, this reality will remain. As Congress and the Administration fail to uphold the trust responsibility to provide health care, USET SPF has continued to advocate for the full funding of IHS and the expansion of self-governance, as well as innovative ways to stabilize and extend funding.

## **Infrastructure and Tribal Review**

As interests outside of Indian country seek the expedited deployment of new technologies and other infrastructure across the United States, USET SPF maintains that

any buildout cannot come at the expense of Tribal consultation, sovereignty, sacred sites, or public health. USET SPF remains committed to protecting vital Tribal historic and cultural reviews, as well as Tribal consultation requirements, as streamlined federal permitting processes are being considered. This includes working toward a model that seeks Tribal Nation consent for federal action in recognition of sovereign equality.

## **Sovereign Management of Environment and Natural Resources**

Over the last several years, Tribal Nations have made jurisdictional gains when it comes to the protection and management of natural resources on Tribal lands, including mechanisms providing for “treatment as a state” (TAS) in the regulation of these resources. As the Executive Branch considers rolling back or changing environmental regulations, USET SPF is working to ensure the continued promotion of Tribal sovereignty and self-determination, as well as additional opportunities to extend the TAS designation.

## **Climate Change Adaptation**

As the threat and immediate impacts of our rapidly changing climate continue to increase, USET SPF member Tribal Nations and those across the country are working to adapt to this new reality while also protecting our traditional ways of life. The effects on Tribal Nations are projected to be especially severe, including the potential loss of traditional knowledge in the face of rapidly changing ecological conditions, increased food insecurity due to reduced availability of traditional foods, changing water availability, Arctic sea ice loss, permafrost thaw, and relocation from historic homelands. This crisis requires action at every level of government, but as our partner in the trust relationship and obligations, the federal government has an obligation to support Tribal Nations in our efforts to assess, mitigate, and respond to climate change impacts.

USET SPF is calling for federal action to ensure Indian country is poised to address this threat to our communities. This includes recognizing Tribal sovereignty and governmental parity as various units of government seek to collaborate and respond at the local, regional, national, and international levels. Tribal Nations must have a full seat at the table in these negotiations, as well as direct collaboration from the federal government in implementing Tribal-specific solutions.

Tribal Nations facing immediate threats from climate change must have direct, open access to funding, capacity-building, and other technical assistance, with



their free, prior and informed consent, to address immediate and long-term threats. And all Tribal Nations must have fair and equitable access to current and future climate change resources, including all federal climate change programs and funding, as well as specific set-aside funds.

Finally, traditional knowledges, with the free, prior, and informed consent of Tribal Nations, must be acknowledged, respected, and promoted in federal policies and programs related to climate change.

### **Protection of Sacred Sites**

While the practice of spiritual and ceremonial traditions and beliefs varies significantly among USET SPF Tribal Nations, our spirituality is overwhelmingly place-based. From the Mississippi Band of Choctaw Indians' Nanih Waiyah mounds to the ceremonial stone landscapes of New England, each member Tribal Nation has specific places and locations that we consider sacred. These places are often the sites of our origin stories, our places of creation. As such, we believe that we have been in these places since time immemorial. Through these sites, we are inextricably linked to our spirituality, the practice of our religions, and to the foundations of our cultural beliefs and values. Our sacred sites are of greatest importance as they hold the bones and spirit of our ancestors and we must ensure their protection, as that is our sacred duty. As our federal partner in this unique government-to-government relationship, it is also incumbent upon all branches of the U.S. government to ensure the protection of these sites.

### **Trust Modernization**

USET SPF, along with Tribal Nations and organizations, continues to seek a modernized, 21st century relationship with the federal government. It is time for a new model that promotes a truly diplomatic, nation-to-nation relationship between the U.S. and Tribal Nations, and that empowers each Tribal Nation to define its own path. This mission should inform each action taken by this Administration affecting Tribal Nations. USET SPF is committed to working in partnership with all branches of government to achieve federal Indian policy reflective of the capabilities of 21st century Tribal Nations, as well as our inherent sovereignty and status as governments.





# 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. 2019 SPF:004

### **SUPPORT FOR RECLAIMING NATIVE TRUTH**

- WHEREAS,** United South and Eastern Tribes 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 Nations' leadership; and
- WHEREAS,** despite the invaluable contributions to the United States made by Tribal Nations, the continued survival of Tribal culture, and strength of Native people, public perception of Tribal Nations and Native peoples remains biased, inaccurate, and harmful to our progress; and
- WHEREAS,** because of these deeply held misperceptions, Native experiences and voices are largely invisible or fundamentally misrepresented in public discourse; and
- WHEREAS,** the USET SPF 2018 Annual Meeting began on a day that continues to be set aside by the United States where this country shamefully celebrates Christopher Columbus; a man whose legacy includes the destruction of Native peoples and cultures without regard or a sense of humanity; and,
- WHEREAS,** in June 2016, the Reclaiming Native Truth project was launched as a national effort to foster cultural, social, and policy change by empowering Native Americans to counter discrimination, invisibility, and the dominant narratives that limit Native opportunity, access to justice, health, and self-determination; and
- WHEREAS,** Reclaiming Native Truth's goal is to move hearts and minds toward greater respect, inclusion and social justice for Native peoples; and
- WHEREAS,** between 2016 and 2018, Reclaiming Native Truth conducted an unprecedented research campaign designed to increase our understanding of the dominant narrative about Native peoples in the United States; and
- WHEREAS,** this comprehensive research was designed to uncover what different groups of Americans across socioeconomic, racial, geographic, gender, political ideology, and generational cohorts perceive, and what they don't know, about Native Americans and Native issues, as well as to learn what types of messages will begin to shift public perception; and
- WHEREAS,** the project's research methodologies included a combination of literature reviews, social listening, focus groups, online focus groups, national surveys, and in-depth interviews; and

- WHEREAS,** researchers found that deficits in education and limited personal experience with Native people and Tribal Nations contributed to a dominant national narrative that renders our history and contemporary life invisible or stereotyped; and
- WHEREAS,** the research also revealed opportunities to change this narrative through education and increased historical accuracy, as well as framing messages in hopeful tones that appeal to personal values; and
- WHEREAS,** this led to the development of a new narrative based in values, history, and visibility that resulted in significantly higher support for Native issues; and
- WHEREAS,** new narratives alone are not enough. They must connect with grassroots organizing, cross-sectoral partnerships with non-Native allies, and unity, not only within Tribal Nations but also among individual Natives and allies; and
- WHEREAS,** Reclaiming Native Truth has created messaging guides for use by both Indian Country Stakeholders and Reclaiming Native Truth Allies; 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 strongly supports and concurs with the conclusions drawn by the research of the Reclaiming Native Truth project, noting this reflects our own experiences; and, be it further
- RESOLVED** the USET SPF Board of Directors will partner with Reclaiming Native Truth to disseminate and amplify the new narrative, and in future efforts designed to promote a positive, accurate portrayal of Native people and Tribal Nations in public discourse.

### 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

*Because there is Strength in Unity*



# 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. 2019 SPF:006

### **CALLING FOR TRANSPARENCY IN OFFICE OF MANAGEMENT AND BUDGET CROSSCUT OF FEDERAL INDIAN FUNDING**

- WHEREAS,** United South and Eastern Tribes 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 Nations' leadership; and
- WHEREAS,** Tribal Nations have a unique relationship with the United States that has its underpinnings in the U.S. Constitution, specifically, the Indian Commerce Clause, the Treaty Clause and the Supremacy Clause, in numerous treaties, and through the cession of vast tracts of Tribal lands and resources; and
- WHEREAS,** these resources are the very foundation of this nation, and have allowed the United States to become the wealthiest and strongest world power; and
- WHEREAS,** the federal fiduciary obligation to Tribal Nations, including through the federal appropriations process, is simply a repayment on this debt and the many promises made by the United States; and
- WHEREAS,** despite this abiding obligation, federal Indian programs and agencies are consistently and chronically underfunded, which continues to have disastrous impacts upon Tribal Nation governments and Native peoples; and
- WHEREAS,** a primary reason for this underfunding is inadequate requests made by the Administration to Congress through the annual budget process, failing to reflect a prioritization of trust obligations and the related promises that are at the core of the special and unique relationship with Tribal Nations; and
- WHEREAS,** the Office of Management and Budget (OMB) is responsible for preparation of the President's Budget Request each year, which includes determining requests for federal Indian programs and agencies, and setting funding priorities; and
- WHEREAS,** OMB asserts that Indian Country is funded at over \$21 billion in federal dollars annually, providing a crosscut reflecting this number, but without critical details; and
- WHEREAS,** from the perspective of Tribal advocates, including those who serve on budget formulation committees for federal agencies, \$21 billion is a dramatic over-estimate, with far less funding actually reaching Tribal Nations and Tribal citizens; and

- WHEREAS,** USET SPF suspects that OMB determines this figure by tallying the amount for which Tribal Nations and entities are eligible, regardless of whether these dollars actually reach Indian Country; and
- WHEREAS,** in the absence of greater detail, neither the Executive nor the Legislative branches can determine how well fiduciary trust obligations are being met by the federal government; and
- WHEREAS,** the Tribal Interior Budget Council has asked OMB for a full accounting of federal funding distributed to Indian Country, and to date, OMB has not responded to this request, continuing to take the position that as an extension of the Executive Branch, it does not have the same consultative responsibilities as other federal agencies; 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** USET SPF calls upon the Office of Management and Budget to immediately issue a full and transparent accounting of federal funding distributed to Indian Country; and be it further
- RESOLVED** USET SPF urges Congress to direct the Office of Management and Budget to provide a full and transparent accounting of federal funding distributed to Indian Country in upcoming appropriations legislation.

### 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

*Because there is Strength in Unity*





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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. 2018 SPF:018


### REFUTING STATEMENTS REGARDING CONSTITUTIONALITY OF FEDERAL INDIAN LAW


- WHEREAS,** United South and Eastern Tribes 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 Nations' leadership; and
- WHEREAS,** recent statements made by Administration officials and arguments pursued by litigating plaintiffs indicate either a profound misunderstanding of or a desire to reevaluate the constitutionality of United States actions intended to carry out the United States' trust responsibility to American Indians and Tribal Nations, specifically as they relate to the equal protection clause under the Constitution; and
- WHEREAS,** to find that United States actions targeted at American Indians and Tribal Nations violate the Constitution's equal protection clause would have drastic impacts on the United States' ability to carry out its trust responsibilities to Tribal Nations and would be entirely inconsistent with well-settled law; and
- WHEREAS,** Tribal Nations are political, sovereign entities whose status stems from the inherent sovereignty they possess as self-governing Nations predating the founding of the United States, and since its founding, the United States has recognized them as such and entered into treaties with them on that basis; and
- WHEREAS,** through treaty-making and its general course of dealings, the United States has taken on a special and unique trust responsibility and obligation to American Indians and Tribal Nations; and
- WHEREAS,** the Constitution recognizes that Tribal Nations have a unique status stemming from their sovereignty and relationship with the United States, and it contains provisions specifically directed at American Indians and Tribal Nations that give the United States the tools necessary to carry out the trust responsibility and obligations; and
- WHEREAS,** in 1974, the Supreme Court in *Morton v. Mancari* affirmed that the United States can lawfully treat American Indians and Tribal Nations differently from other groups in carrying out its trust responsibility and obligations without running afoul of Constitution's equal protection clause; and
- WHEREAS,** the Court explained that such treatment is not directed at a suspect racial classification, but rather, at a unique and non-suspect class recognized and provided for within the Constitution, where such recognition arises from the United States' political relationship with Tribal Nations as separate sovereigns; and

- WHEREAS,** the Court went on to mandate that, as long as the United States' action furthers its "unique obligation toward the Indians," it will survive review under the Constitution's equal protection clause; and
- WHEREAS,** since *Morton v. Mancari*, courts have continuously upheld the principle that United States actions directed at American Indians and Tribal Nations in furtherance of its trust responsibility do not unconstitutionally target a racial classification, including the Supreme Court and every United States Circuit Court of Appeals that has discussed the issue; and
- WHEREAS,** since federal agencies may act to aid in carrying out the United States' trust responsibility, courts have applied the equal protection principles affirmed in *Morton v. Mancari* to uphold as constitutional federal agencies' acts directed at American Indians and Tribal Nations in furtherance of the trust responsibility, and they have not required the agencies to be acting under a specific statute targeted at American Indians or Tribal Nations; and
- WHEREAS,** similarly, since states may act to aid in carrying out the United States' trust responsibility, courts have applied the equal protection principles affirmed in *Morton v. Mancari* to uphold as constitutional states' acts directed at American Indians and Tribal Nations in implementing federally funded programs; and
- WHEREAS,** since statutes that prohibit race-based discrimination, such as the Civil Rights Act, incorporate equal protection jurisprudence regarding suspect classifications, United States actions directed at American Indians and Tribal Nations in furtherance of the trust responsibility do not qualify as statutorily prohibited race-based discrimination; 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 refutes in the strongest possible terms the notion that any federal Indian program implicates the equal protection clause of the United States Constitution and this is a fact upheld in federal law, policy, and caselaw; and, be it further
- RESOLVED** the USET SPF Board of Directors calls upon the Administration and Congress to ensure all policy making, statements, and other federal actions reflect the indisputable constitutionality of United States actions aimed at carrying out the trust responsibility and obligations owed to American Indians and Tribal Nations.

### CERTIFICATION

This resolution was duly passed at the USET SPF Impact Week Meeting, at which a quorum was present, in Arlington, VA, February 8, 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

*Because there is Strength in Unity*



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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. 2018 SPF:007

### **SUPPORT FOR THE ASSERTION OF TRIBAL SOVEREIGNTY AND SELF-DETERMINATION IN ECONOMIC DEVELOPMENT MATTERS**

- WHEREAS,** United South and Eastern Tribes 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 Nations' leadership; and
- WHEREAS,** Tribal sovereignty is an inherent authority exercised by all federally-recognized Tribal Nations and has existed continuously since before European contact; and,
- WHEREAS,** the United States (U.S) Constitution, U.S. Supreme Court decisions, and hundreds of treaties, federal statutes, and regulations all recognize that Tribal Nations are distinct governments with inherent rights, powers, privileges, and authorities; and
- WHEREAS,** Tribal Nations have a unique government-to-government and trust relationship with the U.S.; and,
- WHEREAS,** each Tribal Nation that is a member of USET SPF provides essential services to its citizens including education, housing, health care, and public safety, raising Tribal governmental revenue for these services through the operation of enterprises including the provision of goods and services in the marketplace; and
- WHEREAS,** sovereign immunity from suit is the right of all governments in the U.S., including federal, state and Tribal governments. The purpose is to provide protection against loss of assets held in common for many people for the performance of vital government functions. The federal government has a longstanding obligation under the Constitution, treaties, and hundreds of court cases to protect Tribal self-government. Any federal abrogation of Tribal immunity runs sharply counter to this obligation, and would substantially interfere with Tribal self-governance, and place Tribal assets and funds at risk; and
- WHEREAS,** in 2014, the U.S. Supreme Court reaffirmed the validity of the broad and sweeping doctrine of Tribal sovereign immunity from suit [*Michigan v. Bay Mills Indian Community*, 134 S. Ct. 2024 (2014)]; and
- WHEREAS,** Tribal Nations also have the inherent right to conduct economic development activities for the purpose of raising revenues for the benefit of the Tribal Nation and their citizens, in order to achieve the dual goals of self-determination and self-governance; and
- WHEREAS,** in furtherance of these goals, USET SPF member Tribal Nation, the Saint Regis Mohawk Tribe (SRMT), recently entered into a transaction pursuant to which SRMT has gained

ownership of certain patents in exchange for a lump sum and annual royalty payments that will be used for essential governmental purposes; and

**WHEREAS,** the SRMT has asserted its sovereign immunity from suit in a pending action regarding the validity of the acquired patents in inter partes review (“IPR”) proceedings before the U.S. Patent Trial and Appeal Board; and

**WHEREAS,** unlike recent successful assertions of sovereign immunity by state entities in the IPR proceedings, there has been considerable press coverage and reaction by members of Congress to SRMT transaction and use of sovereign immunity as a defense to IPR proceedings; including requests for an investigation, scheduling of Congressional hearings, and introduction of legislation that would abrogate Tribal sovereign immunity; and

**WHEREAS,** in December 2010, the U.S. recognized the rights of its First Peoples through its support of the United States Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it

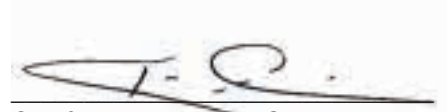
**RESOLVED** the USET SPF Board of Directors strongly opposes any legislative attempt to abrogate Tribal sovereign immunity in any proceeding or forum; and, be it further

**RESOLVED** the USET SPF Board of Directors urges Congress, as part of its review of the America Invents Act, Public Law 112-29, and issues surrounding sovereign immunity from inter partes review or other Patent Trial and Appeal Board proceedings, to preserve Tribal sovereign immunity in parity with state sovereign immunity in any future amendments to America Invents Act; and, be it further


**RESOLVED** the USET SPF Board of Directors will take all steps necessary and appropriate to oppose any legislation or effort to modify or abrogate Tribal sovereign immunity.

### CERTIFICATION

This resolution was duly passed at the USET SPF Annual Meeting, at which a quorum was present, in Cherokee, NC, October 12, 2017.



Chief Kirk E. Francis, Sr., President  
United South and Eastern Tribes, Inc.



Chief Lynn Malerba, Secretary  
United South and Eastern Tribes, Inc.

*Because there is Strength in Unity*





## United South and Eastern Tribes, Inc.

### **Nashville, TN Office:**

711 Stewarts Ferry Pike, Suite 100  
Nashville, TN 37214  
Phone: (615) 872-7900  
Fax: (615) 872-7417

### **Washington, DC Office:**

400 North Capitol Street, Suite 585  
Washington, D.C., 20001  
Phone: (202) 624-3550  
Fax: (202) 393-5218

### **USET Resolution No. 2014:061**

#### **THE INHERENT SOVEREIGN RIGHT FOR A TRIBE TO HOLD TERRITORY AND TRUST LANDS**

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-six (26) 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,** Indian Tribes hold a unique status in the United States with the rights of sovereign nations; and
- WHEREAS,** this relationship has its underpinnings in the U.S. Constitution and in numerous treaties, laws and other agreements and understandings between the United States and Indian Tribes; and
- WHEREAS,** Tribal inherent sovereignty pre-dates the establishment of the United States; and
- WHEREAS,** many attributes of sovereignty are inextricably linked to territory; and
- WHEREAS,** Indian Tribes possess an ancient and enduring relationship with their ancestral lands; and
- WHEREAS,** central historic feature of the United States – Tribal relationship has been the theft of Indian lands by the United States, with the accompanying direct erosion of Tribal sovereignty and cultural identity; and
- WHEREAS,** the restoration of Tribal lands is a fundamental trust obligation of the United States and the holding of Tribal lands is essential to the full recognition of Tribal sovereignty, as well as critically important for the prosperity and vitality of Native communities; 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** it is the position of the USET Board of Directors affirms that all Tribes have a fundamental right to Tribal territory including trust lands, over which they may exercise sovereignty as an inherent attribute of that sovereignty culture; and
- RESOLVED** the USET Board of Directors recognizes that Tribal territory, including trust lands, is critical to the prosperity and survival of Tribes and Tribal culture; and, be it further
- RESOLVED** that the USET Board of Directors shall advance this right in all appropriate venues including in trust reform initiatives.

#### **CERTIFICATION**

This resolution was duly passed at the USET Semi-Annual Meeting, at which a quorum was present, in Bar Harbor, ME, June 4, 2014.

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

Brenda Lintinger, Secretary  
United South and Eastern Tribes, Inc.

**Testimony of  
United South and Eastern Tribes Sovereignty Protection Fund  
House Appropriations Subcommittee on Interior, Environment, and Related Agencies  
FY 2020 Native American Public Witness Hearings  
March 15, 2019**

Chairman McCollum, Ranking Member Joyce, and members of the Subcommittee, the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) thanks you for this opportunity to submit testimony on the FY 2020 Interior Appropriations budget.

USET SPF represents 27 federally recognized Tribal Nations from Texas to Florida to Maine. USET SPF member Tribal Nations are within the Eastern Region and Southern Plains Region of the Bureau of Indian Affairs and the Nashville Area of the Indian Health Service (IHS), covering a large expanse of land compared to other regions. Due to this large geographic area, USET SPF Tribal Nations have great diversity in cultural traditions, land holdings, and resources. From an economic standpoint, some of our member Tribal Nations have highly developed economies, while others remain dependent upon the federal government to provide essential services to their citizens.

**Federal Appropriations for Indian Programs are a Key Part of the Federal Government's Trust Responsibility.** As was acknowledged by the 100th Congress, the United States owes a "historical debt" to Tribal Nations. This debt includes the many injustices that Native peoples have suffered as a result of federal policy, including federal actions that sought to terminate Tribal Nations and assimilate Native people. It also involves the ceding of our land holdings and natural resources, oftentimes by force, to the United States resulting in a perpetual trust obligation to Tribal Nations. These resources are the very foundation of this nation, and have allowed the United States to become the wealthiest and strongest world power in history. Federal appropriations to Indian Country are simply a repayment on this debt. This is not merely a question about addressing poverty or needs. Our relationship is more than this. This is ultimately a question about honor, about fulfilling commitments and promises.

**U.S. Commission on Civil Rights Again Finds Substantial Funding Shortfalls.** In December 2018, the U.S. Commission on Civil Rights issued *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. In this report, the Commission updated its 2003 report, *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*, which found that Federal programs designed to support the social and economic wellbeing of Native Americans remain chronically underfunded and sometimes inefficiently structured, which leaves many basic needs in the Native American community unmet and contributes to the inequities observed in Native American communities. Unfortunately, 15 years later, the U.S. Commission on Civil Rights found virtually no improvement:

*"Federal funding for Native American programs across the government remains grossly inadequate to meet the most basic needs the federal government is obligated to provide. Native American program budgets generally remain a barely perceptible and decreasing percentage of agency budgets. Since 2003, funding for Native American programs has mostly remained flat, and in the few cases where there have been increases, they have barely kept up with inflation or have actually resulted in decreased spending power."*

It is not acceptable that Federal funding continues to be so inadequate in relation to the trust and treaty obligation owed to Native communities by the United States.

**In his FY 2020 Request, the President Continues to Dishonor the Trust and Treaty Obligations and Responsibilities of the United States.** As of the writing of this testimony, we do not have the President's full FY 2020 budget, but overall what we do have paints a disturbing picture of an Administration that has largely deemed Indian Affairs and the federal government's trust obligation to be of minimal significance, especially in contrast to its other priorities.

Specifically, the Administration has proposed cutting Indian programs by nearly 10%. This includes cutting funding for the Bureau of Indian Affairs (BIA) by 3%, from the FY 2019 level of \$1,510,020,000 to a proposed FY 2020 level of \$1,462,310,000, cutting funding for the Bureau of Indian Education (BIE) by 4.1% from the FY 2019 level of \$904,557,000 to a proposed FY 2020 of \$867,416,000 and, most staggering, cutting funding for BIE Education Construction by a staggering 71%, from FY 2019 level of \$238,245,000 to a proposed FY 2020 level of \$68,858,000. These cuts are being made even though existing funding levels are seriously deficient, as the U.S. Civil Rights Commission noted.

In his 2017 Native American Heritage Month proclamation, the President stated,

*"My Administration is committed to tribal sovereignty and self-determination. A great Nation keeps its word, and this Administration will continue to uphold and defend its responsibilities to American Indians and Alaska Natives. Together, we will strengthen the relationship between the United States Government and Native Americans."*

A great nation does keep its word. The first step toward fulfillment of America's promises are not just words, but action. While this Administration professes to prioritize Indian Country, this Budget Request reveals otherwise. At all levels of the Administration, from the Office of Management and Budget (OMB) to BIA to IHS, Tribal Nations and others objecting to this draconian budget request are being told that the request is just a "messaging document." If this is a messaging document, then the message is wrong.

The Administration continues to send a powerfully negative message to Indian Country. For example, in reducing, eliminating, and calling into question the constitutionality of federal Indian programs, this Administration is ignoring and undermining its trust responsibility to Tribal Nations. Moreover, the message that this sends to all American citizens is one of disregard and dishonor, further exacerbating the challenges we face in educating the nation on our history, sovereignty, and the continued obligation to Tribal Nations. Finally, the agencies most directly charged with delivering on the fiduciary trust responsibility—BIA and IHS—are demonstrating no accountability for budget request numbers and instead, are directing Tribal Nations to advocate for funding with Congress. This is a failure on the part of the Administration to take seriously its role as trustee.

**Funding Requests and Mechanism do not Reflect Trust Obligations.** Because of our history and unique relationship with the United States, the trust obligation of the federal government to Native peoples, as reflected in the federal budget, is fundamentally different from ordinary discretionary spending and should be considered mandatory in nature. Inadequate funding to Indian Country needs to be viewed as unfilled treaty and trust obligations and should not be vulnerable to year to year "discretionary" decisions by appropriators. Recently, some in Congress have called for mandatory funding for IHS. USET SPF strongly supports this proposal, which is more consistent with the federal trust obligation, and urges that this be expanded to include all federal Indian programs.

We further note the long-lasting effects of continued underfunding for federal Indian programs. The President's FY 2020 Budget Request fails to reflect a prioritization of trust obligations and the related promises that are at the core of our special and unique relationship.

**Constitutionality of Federal Indian Programs.** Several times now, this Administration has called into question the constitutionality of programs or targeted accommodations for American Indians and Alaska Natives (AI/AN). As this Subcommittee well knows, all federal Indian programs are based on a political, government-to-government relationship between the U.S. and Tribal Nations. Appropriations that support programs and services such as this are provided in perpetuity in exchange for the millions of acres of land and natural resources ceded, often times by force, to the U.S. In addition, the Executive Branch, regardless of party, has a decades-long history of policy-making that includes exemptions or accommodations from federal actions for Tribal Nations and Native people.

**This Subcommittee has Long Served as One of Indian Country's Great Defenders.** USET SPF asks that the Subcommittee go beyond just defending Indian programs, which you have done so well, and instead adopt funding that would radically support the ability of Indian Country to build self-sustaining economies and health populations, which would not only be a fulfillment of the Trust Responsibility, but would bring vitality to surrounding non-Indian communities, as well. Bottom line, strong and vibrant Tribal Nations, sovereigns that exist within the domestic borders of the United States, ultimately have a positive impact on America.







# MODERNIZING THE TRUST

## REDEFINING THE UNITED STATES-TRIBAL GOVERNMENT-TO-GOVERNMENT RELATIONSHIP AND ADVANCING TRUST ASSET REFORM

*In response to widespread dissatisfaction in Indian country with the federal government's implementation of the trust responsibility and the resulting impact on Tribal sovereignty, USET has been exploring the idea of a fundamental review of the federal trust responsibility, as well as its impact on Tribal sovereignty, with the intent of building a new framework for Tribal-Federal relations that provides Tribal Nations with an equal say in the defining of that relationship, instead of it almost entirely being defined by the federal government. This analysis starts from the conclusion that the defects in the trust responsibility are systematic in nature and therefore must be addressed at the systematic level. Recognizing any systemic change would require the support of all of Indian country, USET has partnered with other regional and national Tribal organizations across Indian country as part of this effort.*

### KEY PRINCIPLES OF INDIAN TRUST MODERNIZATION

#### Defining the Federal Trust Responsibility for the 21st Century

**T**he current trust model is broken and based on faulty and antiquated assumptions from the 19th Century that Indian people were incompetent to handle their own affairs and that Tribal Nations were anachronistic and would gradually disappear. As a result, the current trust model requires a comprehensive overhaul to modernize federal Indian policy in a manner that is consistent with self-determination and rooted in retained inherent sovereign authority as opposed to an approach that presumes that Tribal Nations have been granted their sovereign rights. A new model must be based on fulfillment by the United States of treaty obligations and the recognition and support of Tribally-driven solutions. No branch of the Federal Government should be permitted to unilaterally decide whether to comply with treaties and other legally-binding agreements.

This new paradigm should follow the spirit of the Indian Reorganization Act and President Johnson's and President Nixon's Special Messages to Congress on Indian Affairs. It is time to establish a trust model

that reflects a true nation-to-nation partnership built upon diplomacy that will strengthen federal trust administration, enhance Federal-Tribal relations, and promote and protect Tribal sovereignty, all with the goal of building and sustaining prosperous Tribal communities. These key elements of Indian trust modernization should guide legislative reform and simultaneous administrative improvements.

In return for Tribal Nations ceding millions of acres of land that made the United States what it is today, the United States has recognized and must protect the Tribal right to self-government, the right to exist as distinct peoples on their own lands, as well as remaining Indian trust assets. The Constitution, treaties, statutes, Executive Orders, and judicial decisions all recognize the United States' fundamental trust relationship with Tribal Nations. Under this relationship, the United States has certain legal trust obligations to Tribal Nations, which govern the federal government's administration of Indian trust property and shape its nation-to-nation relations with Tribal Nations.

The United States' legal obligations for the administration, management, and accounting of Indian trust property have been the subject of significant litigation and many executive branch policy statements. The United States administers on behalf of Indians a wide array of trust property, including land, natural resources, and funds. The Department of the Interior's Secretarial Commission on Indian Trust Administration and Reform in 2013 urged a renewed emphasis on fiduciary obligations for this trust administration.

The United States' trust obligations also shape its special nation-to-nation relations with Tribal Nations. The United States carries out many functions on behalf of Tribal Nations, including involvement in water rights disputes, appraisals and probate, congressional funding, and government contracting and compacting. Trust obligations should affect the outcome when there is a dispute between Tribal interests and other interests. The trust obligation includes supporting inherent Tribal sovereignty. As governments, Tribal Nations must deliver a wide range of critical services, such as education, workforce development, public safety, infrastructure, and healthcare to their citizens. Tribal Nations have the capability as governments to oversee their own affairs

and serve their citizens. As such, they should be in parity with states and local governments. What follows lays out basic principles for trust modernization.

### **I. Strengthen Trust Standards – Adopt Implementing Laws and Regulations.**

As President Nixon recognized in 1970, the United States government acts as a legal trustee for the land and water rights of Tribal Nations and their citizens, and these rights are of critical economic importance to Tribal Nations. Moreover, the second recommendation of Congress's own American Indian Policy Review Commission in 1977 was that Congress should reaffirm and direct all executive agencies to administer the trust responsibility consistent with a set of specific legal principles. More recently, Secretary of the Interior Bruce Babbitt issued a Secretarial Order that outlined principles for the proper discharge of these trust responsibilities, and those principles were later codified in the Department of the Interior Manual. Also, in 2013, after a two-year review, the Department of the Interior's Secretarial Commission on Indian Trust Administration and Reform as its first recommendation urged that the United States government clarify that: (1) all federal agencies have a trust responsibility to Indians; (2) this trust responsibility demands a high standard of conduct; and (3) each agency is to place Indian interests before those of the agency and outside parties.

Since then, Secretary of the Interior Sally Jewell has issued a Secretarial Order that outlines additional guiding principles for honoring the trust responsibility. The Secretary should finalize these regulations after full consultation with Indian country, even as the Obama Administration and Congress develop and enact legislation to codify these trust standards in statute. The next logical step is to comply with federal consultation requirements to develop and promulgate regulations to ensure that all future administrations (including all departments, offices, bureaus, and agencies) fulfill their trust responsibilities.

### **II. Strengthen Tribal Sovereignty – Empower Each Tribal Nation to Define its Path.**

Since 1968, every Congress and President has recognized that Tribal governments are the entities best suited to meet the needs of their communities. This is because they are more directly accountable to the people they represent, more aware of the problems their communities face, and more agile in responding to changing circumstances. Empirical research also has confirmed that empowering Tribal governments through a meaningful recognition of Tribal sovereignty is the best way to increase economic development in

Indian country. This does not just mean authorizing Tribal Nations to administer federal programs under 638 contracts or self-governance compacts, even though that remains valuable. We must move beyond helpful but piecemeal approaches directed at specific functions or programs and start providing Tribal Nations with real decision-making authority in the management of their own affairs and assets. This should include, but not be limited to, allowing each Tribal Nation to decide for itself the specific role that it wants to play in the management of its own trust assets. One Tribal Nation may want to manage some or all of its assets itself with no federal interference. Another may wish to continue to have those assets managed by a federal system. Tribal Nations have different capabilities, goals, and concerns and all of those should be respected by the federal government and its federal policies and systems.

### **III. Strengthen Federal Management – For Trust Assets and Programs Still Subject to Federal Control.**

Today, a number of federal agencies continue to institute policies that affect all Tribal Nations and allottees. This "one size fits all" approach ignores the unique differences between the individual Tribal Nations and the unique government-to-government relationship each Tribal Nation has with the United States under its own treaties and other agreements. Too often federal agencies apply federal regulations and environmental laws of general application to Tribal assets or to public lands, with potential effects upon Tribal assets, according to the best interests of the federal government, when the determination should defer to the best interests of the Tribal Nation and its Tribal citizens. Such determinations should be made and implemented in collaboration with Tribal Nations.

Unfortunately, many solutions imposed by federal agencies or Congress never get changed or abolished, even when the Tribal Nations and a federal Commission point out their shortcomings and recommend improvements. For example, Congress established the Office of Special Trustee to provide temporary oversight to improve federal trust management. Now, more than twenty years later, OST has become a separate bureaucracy which remains despite its apparent completion of its purpose and repeated calls to reintegrate Indian trust asset management to be more efficient, effective, and accountable. This is a significant drag on critical Tribal and allottee resource use and development. Also, while the United States has settled Cobell and most Tribal trust cases, and actively sought to reduce its trust fund management through those settlements, OST still employs hundreds of people and as of fiscal year 2015 has a budget of approximately \$139 million.



#### **IV. Strengthen Federal-Tribal Relations – One Table with Two Chairs.**

Like the National Council on Indian Opportunity that President Johnson established, and President Nixon expanded, the new White House Council on Native American Affairs provides an invaluable opportunity for candid and frank discussions of ways to improve the lives of Native people in America. However, as was recognized by two Presidents and Congress decades ago, Tribal Nations must have a seat at the table if this entity and its efforts are to be successful. Tribal Nations' own leaders understand their communities, their needs, and their obstacles. They are therefore in the best position to make recommendations on how to address their problems, and to help develop federal approaches which will achieve the best results, in the shortest time possible, without wasting federal resources. Regardless of the role Tribal Nations choose to play in the management of their own assets, their opinions should be sought, respected, and listened to. For all these reasons, regular, coordinated, and meaningful high-level engagement is essential if the federal government is going to properly develop, coordinate, and improve federal policies affecting Tribal Nations.

#### **V. Strengthen Federal Funding and Improve Its Efficiency – A Pillar of the Trust Responsibility.**

None of the above proposals can succeed without sufficient and effective federal funding, which for far too long has been lacking in Indian programs and services. Federal funding is disturbingly deficient for trust administration, services, infrastructure, and contract support costs, all of which are required by treaties, statutes, and federal trust duties. Continuing these funding policies will exacerbate Indian needs, stifle Tribal economies, increase federal costs, and

set the stage for the next generation of Cobell and Tribal trust mismanagement claims. Moreover, as the Department of the Interior's Secretarial Commission on Indian Trust Administration and Reform and the Department of Justice's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence have both recently recognized, treaties and the trust responsibility are not discretionary. Accordingly, Congress and the Administration should increase funding for federal Indian programs and services to the level necessary to fulfill the federal government's fiduciary responsibilities to Tribal Nations and their citizens and reclassify trust administration, services, and programs as non-discretionary. Finally, because federal Indian affairs funding is provided in fulfillment of clear legal and historic obligations, those federal dollars should not be subject to "means testing" or other inapplicable standards developed unilaterally by Congress or federal officials.

**Intent of this Document:** This document is largely comprehensive in the sense of identifying many, if not most, of the challenges and principles relative to the nature and evolution of the federal-Tribal trust relationship. As a practical matter and given the rhythms and vagaries of the legislative process, it is also true that at any given time, legislation may be pending in Congress or initiatives pursued in federal agencies that address one or more—but not all—of the challenges and principles outlined above. In these cases, this document should not be understood to mean that all the principles must be included in such legislation or administrative initiatives. Instead, this document assumes that, depending on the circumstances, any one, some, or all the principles outlined above may be pursued as appropriate opportunities present themselves, whether administrative or legislative.



# USET SPF PROPOSALS FOR TRIBAL TAX REFORM

## INTRODUCTION

**T**he United South and Eastern Tribes Sovereignty Protection Fund, Inc. (USET SPF) calls upon the United States Congress to amend the Internal Revenue Code to ensure that federal tax law treats Tribal Nations in a manner consistent with their governmental status, as reflected under the U.S. Constitution and numerous federal laws, treaties and federal court decisions. Tribal Nations have a governmental structure and have the power and responsibility to enact civil and criminal laws regulating the conduct and affairs of their citizens and land base. They operate and fund courts of law, police forces and fire departments. They provide a broad range of governmental services to their citizens, including education, transportation, public utilities, health, economic assistance, and domestic and social programs. Like states and local governments, Tribal Nations--as political bodies--are not subject to income tax under the Code.

The non-taxable status of Tribal governments should be maintained in any version of federal tax reform considered by the Congress as a matter of governmental fairness and parity. Improvements in the Tax Code are also vitally needed to align federal tax policy with the critical federal policy objectives of Tribal self-determination, Tribal economic growth and self-sufficiency and the promotion of strong Tribal governments on equal footing with other sovereigns within the federal system. USET SPF's tax policy proposals advance these objectives in a manner that will promote economic growth, foster Tax Code fairness by eliminating additional burdens on Tribal governments and further important federal policy interests.

Tax policy fairness toward Tribal Nations and the promotion of economic growth are of central importance in Indian country. While Tribal Nations have full sovereign rights and authority to tax economic activity within their territories, many Tribal governments generate revenues through the operation of their own enterprises and economic development activities where profits provide a source of revenue to meet and supplement vital programs and services. Yet, even though the U.S. Constitution expressly provides Congress with the power

to regulate commerce with Tribal Nations, Supreme Court jurisprudence has allowed states to undermine that federal power and intrude on Tribal sovereignty through the taxation of non-Indians doing business in Indian country. The added layers of state and local government regulation and taxation stifle economic development on Indian reservations and syphon vitally needed revenues away from Tribal governments. Tribal Nations must often refrain from levying their Tribal taxes in order to attract and retain non-Indian businesses that benefit the Tribal economy through job creation and long-term employment opportunities. Instead of generating revenues for Tribal Nations to fund programs and services for their citizens, most revenues generated from these on-reservation business activities are transferred out of Indian country and into state and local government coffers where they are used to serve other non-Indian populations.

Congress must exercise its Indian Commerce Clause authority to create reliable and effective federal tax and economic development policy that firmly supports Tribal governance while protecting the ability of Tribal Nations to generate and retain the full use of Tribal revenue to create jobs, stimulate business activity and deliver services within Indian country.

Tribal governments also have responsibilities that are distinct from those of other sovereigns. Tribal Nations and their elected representatives have the added responsibility of ensuring they have the revenue needed to fulfill responsibilities to maintain Tribal language, culture, and ceremonies. Preservation and restoration of Tribal culture remains a significant federal policy objective that seeks to reverse damage caused by the former federal policy of Indian Assimilation, which forbade the practice of Native ceremonies and use of Native languages.

USET SPF's tax reform proposals, as set forth below, are guided by these important policy objectives. USET SPF calls on the Congressional tax writing committees to incorporate these proposals into tax reform or other tax legislation in order to develop a Tax Code that:

- encourages private investment and stimulates business activities in Indian country;
- provides Tribal Nations with full access to government financing tools;

- ensures that revenues generated within Tribal territories are retained by Tribal Nations for Tribal economy building and are not subject to taxation by state and local jurisdictions;
- respects elected leader decision-making with regard to determining the well-being of Tribal citizens, including advancing and protecting social, cultural and ceremonial practices;
- advances the ability of Tribal Nations to build an economic base and create employment opportunities;
- promotes certainty of jurisdiction, certainty to the capital markets, and certainty in tax policy to sustain economic growth and foster economic partnerships.

### **USET SPF's Tax Reform Proposals**

#### **A. HELP CREATE JOBS AND GROW THE ECONOMY**

1. Affirm Tribal Sovereign Authority to Regulate Commerce in Tribal Territories and Eliminate the Multiple Levels of Outside Regulation and Taxation that Undermines Business Development and Job Creation
2. Immunize Nation-to-Nation Commerce and Investment from Taxation
3. Adopt Legislation to Enhance the Efficiency and Effectiveness of Federal Programs that Promote Economic Development in Indian Country
4. Establish Tribal Empowerment Zones in Indian Country
5. Create Tax Credits for Federal Income Tax Paid
6. Improve the Effectiveness of the "Tax Extenders" Intended to Benefit Indian Country
  - a. Renew and Make Permanent the Simplified Indian Employment Tax Credit.
  - b. Make the New Markets Tax Credit Permanent with a Tribal Set Aside and Increase the Annual Credit Allocation.
  - c. Renew and Make Permanent Accelerated Depreciation for Property on Indian Reservations
  - d. Extend Energy Production Grants, plus Clean Renewable Energy Bonds.
  - e. Extend the Indian Country Coal Production Tax Credit

#### **B. PROMOTE TAX FAIRNESS**

1. Eliminate Special Restrictions on Tribal Government Debt
2. Provide Parity in Treatment of Tribal Government Pensions
3. Ensure Social Security Eligibility for Tribal Council Members
4. Provide for Equitable Application of the Adoption Tax Credit
5. Equip Tribal Child Support Enforcement Agencies with the Same Policy Tools and Incentives that Are Available to State-run Entities
6. Promote Parity in the Health Care Professionals Loan Repayment Exclusion
7. Eliminate Excessive Bureaucracy in Medicaid Electronic Health Record (EHR) Incentive Payments that are Assigned to the Tribal Health Care Facilities
8. Exempt Tribal Government Distributions from the Kiddie Tax

#### **C. ADVANCE IMPORTANT FEDERAL POLICY**

1. Respect and Promote Tribal Self-Determination through oversight to ensure full implementation of the General Welfare Exclusion for Tribal Government-Provided General Welfare Benefits
2. Ensure that the Treasury Tribal Advisory Committee (TTAC) is convened and engaged to advise the Secretary of the Treasury on matters of Indian taxation

# DEAR AMERICA

*NativeNewsOnline.net, January 21, 2019*

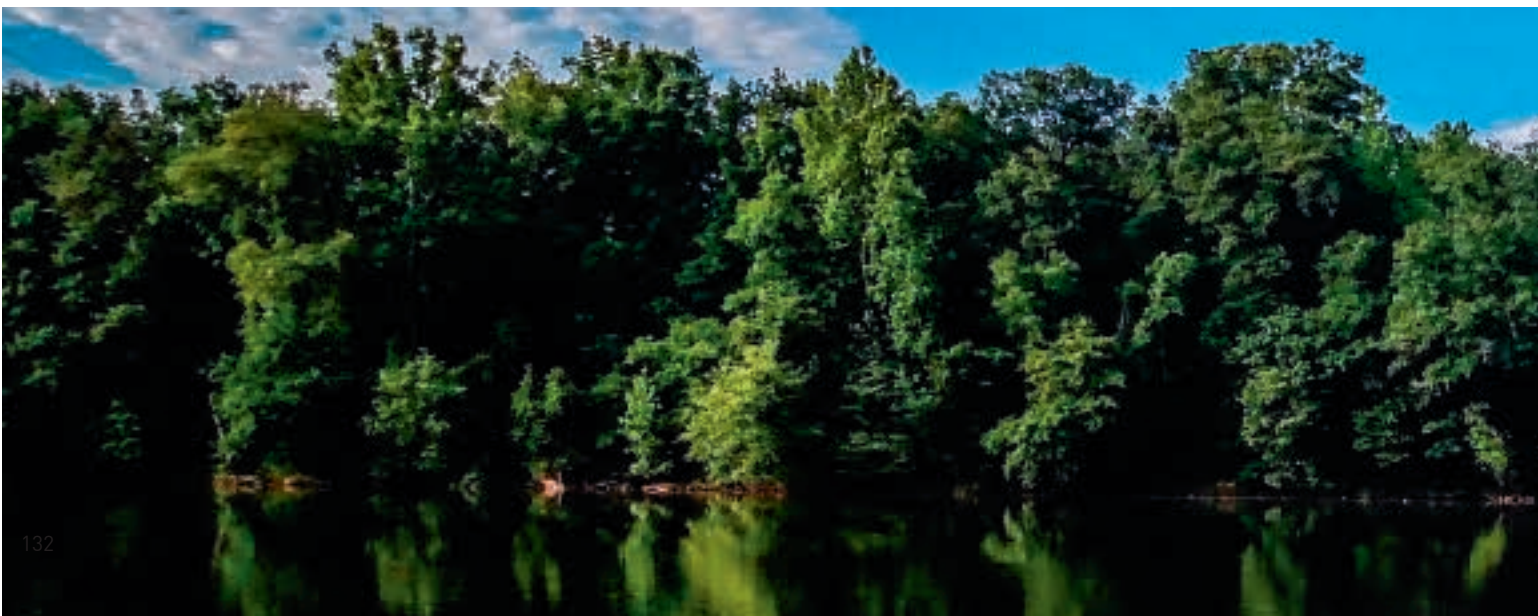


**Kitcki A. Carroll** (Cheyenne and Arapaho Tribes of Oklahoma) Serves as the Executive Director for United South and Eastern Tribes, Inc. (USET) and the USET Sovereignty Protection Fund (USET SPF), an Inter-Tribal Organization representing 27 federally recognized Tribal Nations from Texas across to Florida and up to Maine at the Regional and National level.

Last night, I watched the NFL AFC Championship game and had to listen and watch 70,000 Kansas City Chiefs fans chanting their “tomahawk chop”. Over the weekend, I became aware of the Nathan Phillips viral video, an Umo’ho<sup>n</sup> citizen, and the controversy surrounding the events that unfolded in your Capitol that afternoon. Finally, last week, President Trump once again invoked the name Pocahontas in an inflammatory and derogatory manner as part of his ongoing feud with Senator Elizabeth Warren; only this time, he chose to make reference to Wounded Knee, a massacre where your soldiers brutally massacred hundreds of Lakota and were subsequently awarded Medals of Honor. These are examples only from this past week, but they are a reflection of the experience and persistent challenges we face as indigenous peoples in the land of the free.

These are examples of the persistent and deep seeded ignorance and disrespect towards indigenous peoples that you have allowed to exist. During the weekend when you pause to pay homage to Dr. Martin Luther King, Jr. for advancing race relations, equality, and justice, these despicable and shameful events serve as a stark reminder of the challenges that indigenous peoples continue to face within our own lands; lands that you now claim as your own. It serves as a reminder of how woefully short you have been in ensuring that the indigenous peoples of these lands are afforded the dignity, respect, and honor that we rightfully deserve.

Despite these realities and challenges, we have persevered as a people despite the greatest of odds and we must continue to rise above it all as modern day warriors. We choose to stand strong with courage, conviction, and righteousness in order to ultimately achieve the justice we deserve. Conversely, the examples from this past week stand in representation of all that is wrong today. It would be easy to scapegoat the individuals from the events that transpired over the last week, parents, school systems, but the truth of the matter is that these examples are a consequence of your unwillingness to be truthful about your own existence. These incidents stand in representation of your own failures and I refuse to allow you to brush them off as isolated incidents or to externalize the blame.





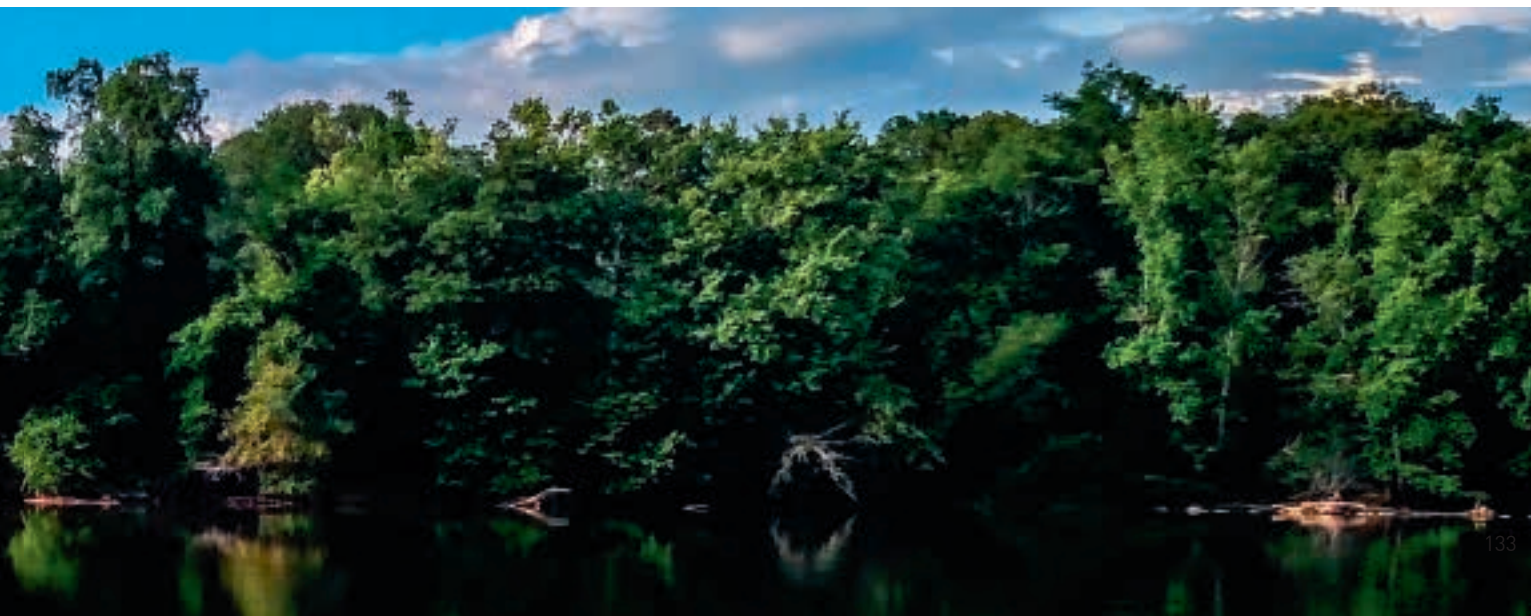
For far too long, you have conveniently allowed yourself to justify and rationalize your abhorrent actions perpetrated against indigenous peoples as a necessary means to an end. You have used laws of your own making and created religious doctrine, such as the Doctrine of Discovery which viewed indigenous peoples as sub-human non-Christian heathens, to validate your immoral, inhumane, and unethical behaviors to clear your conscience of any accountability. In our own lands, you denied us the same rights that you were seeking for yourself. You have intentionally suppressed the truth and advanced an incomplete story of your deeds and asked your citizens to follow blindly without question, without challenge, as a reflection of their patriotic duty.

You are quick to point out the misdeeds and shortcomings of others, but excuse away your own and fail to hold yourself accountable. You debate immigration policy, but conveniently fail to recognize that your entire foundation is based on an illegal presence in lands that did not belong to you and which you were not invited. You have allowed for the normalization, social acceptance, and tolerance of the stereotyping, caricaturizing, and romanticizing of indigenous people. You have become the wealthiest and most powerful nation the world has ever known, as a consequence of the lands and natural resources that you took against our will, but you fail to live up to the promises you made that resulted from you asserting your will. You saw us only as an impediment to your aspirations that were rooted in greed, not as equals, as intended by the Creator. You have perpetuated a belief that we are of only historical relevance and value. You

have allowed us to be invisible in our own lands.

America...enough...no more. Your consistent failure to be honest with your past and failure to fulfill trust and treaty promises and obligations is an indelible stain on your character, integrity, and honor and challenges your claim of global exceptionalism. The time is long overdue for you to be honest with the atrocities of your origin in order for you to best emulate the principles you profess to stand for. Citizens of America, the time has come for you to hold America accountable to demand nothing less than truth, justice, and righteousness towards indigenous peoples as a direct beneficiary of her actions.

America, you must be better, you are better. Unfortunately, there exists much divisiveness today. If nothing else, while the media debates the merits of these stories from the past week, there is presently an opportunity to ensure that our indigenous concerns are not marginalized. Will you use this moment as an opportunity to correct the systemic problems that resulted in these events, or will you impugn yourself of responsibility and allow them to exist only as momentary relevance, consequence, and concern? America, it is time to live by the principles, morals, and values you profess to embrace and exemplify; it starts with your relationship with this land's indigenous peoples. As you pause today to honor Dr. King, recall his teachings, "Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."







## **Federal Government Shutdown Negatively Impacts Indian Country** **Highlighting the Need for a Fundamental Change in Indian Country Appropriations**

(Nashville, TN)— Last December (2018), the U.S. Commission on Civil Rights released *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*. This report was a highly anticipated follow up report to the previously released *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country* (2003).

Unfortunately, despite the 15 years that have transpired between the release of reports, the 2018 report states “...the efforts undertaken by the federal government in the past 15 years have resulted in only minor improvements, at best, for the Native population as a whole. And, in some respects, the U.S. Government has backslid in its treatment of Native Americans, and there is more that must be done compared to when the Commission issued *A Quiet Crisis*.”

While the updated findings of the report come as no surprise to Indian Country, they once again highlight a fundamental moral, ethical, and legal failure of the United States to fulfill its trust and treaty obligations. As reflected in the report, **“The United States expects all nations to live up to their treaty obligations; it should live up to its own.”**

To exacerbate the finding of this report, the federal government is on the verge of experiencing its longest shutdown in U.S. history. While there are many headlines about the real life impacts of the shutdown, the negative impacts on Tribal Nations and their respective citizenry have been neglected. Because of the uniqueness and complexity of our government-to-government diplomatic relationship with the United States, the impact is particularly odious and shameful.

Tribal Nations ceded millions of acres of land and natural resources to the United States, often involuntarily. As part of this exchange, promises were made that exist in perpetuity. The promises were to ensure for our overall health, well-being, and prosperity. Unfortunately, despite these ceded lands and resources-- the very foundation of America’s strength and wealth-- the United States continues to fall woefully short of its obligations.

As stated by USET SPF President Kirk Francis, **“This shutdown must end now as political gamesmanship has real life negative consequences to Native and non-Natives alike. Furthermore, the time has arrived for the United States to prioritize its commitments to Indian Country by taking the necessary steps to fully fund its obligations to Indian Country and to make all Indian Country funding non-discretionary by moving it to the mandatory/ entitlement side of the federal budget as an advance appropriation across the board. Only then can the United States truly state that it is honoring its promises and fulfilling its obligations. ”**

We now find ourselves caught up in a political fight that fails to properly account for, honor, and respect this country’s first moral and ethical obligation. Our absence once again highlights the unfortunate truth that we are too often invisible and therefore do not receive the appropriate attention and consideration that we rightfully deserve. Fortunately, we are our own best advocates and Indian Country possesses tremendous strength. All of Indian Country must stand up during moments like these and express its voice to move us collectively forward to a more just reality.

## A MESSAGE FROM KIRK E. FRANCIS, SR. NATIVE AMERICAN HERITAGE MONTH

November 2018



United South and Eastern Tribes, Inc (USET) & United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) President, Penobscot Indian Nation Chief **Kirk E. Francis, Sr.**

Ever since President George H.W. Bush signed the first resolution in 1990, America has set aside the month of November to recognize and celebrate the beauty, richness, diversity, and uniqueness of our collective Native American heritage that is interwoven into the foundation and fabric of America. America's first peoples, America's indigenous peoples, have made significant contributions to the prosperity and success of America, beginning with the Haudenosaunee Six Nations model of a participatory democracy to the billions of dollars in economic activity and hundreds of thousands of jobs that Tribal Nation business enterprises contribute today to America's overall economy.

The reality is that such a month exists because we are largely invisible within our own lands. Further, our existence as domestic sovereigns is unknown to most, the truth about our long, complex, and complicated nation to nation relationship is most often untold, and our existence is too often stereotyped, romanticized, and minimized to a mere historical footnote. The time has come for greater truth about our shared story with America.

As a reflection of our truth and reality, Indian Country is facing several challenges today. Ironically, while we celebrate the 40th anniversary of the passage of the Indian Child Welfare Act (ICWA) this year, legislation enacted with the specific purpose of protecting our children, the federal district court for the Northern District of Texas recently ruled that ICWA is unconstitutional on several grounds, including that

it violates equal protection requirements of the United States constitution. While this is concerning in and of itself, we are also experiencing constitutionality challenges across all three branches of the federal government, in addition to other challenges that interfere with the free exercise of our inherent sovereign authorities and rights.

While the real challenges must be highlighted and addressed, we must also use these moments to highlight our successes, perseverance, and strength. We have a lot to accomplish ahead of us, but I recognize that there is also much to be grateful and appreciative for during this season of giving thanks; including Native American Heritage Month that offers an opportunity for Indian Country to achieve greater visibility, visibility that will allow us to inch forward to the reality of our vision. Ultimately, it is incumbent upon us all to be steadfast in our determination to achieve a new reality; rooted in truth, rooted in exertion of our sovereign authorities and rights, rooted in holding America accountable for honoring and fulfilling its promises, and rooted in our cultural values and principles that reflect our special place and understanding of these sacred lands. Indian Country must use these moments to speak our truth and move beyond the comfortable conversations. We must utilize these moments to promote movement beyond a single month that recognizes and celebrates us to a reality where truth, honor, respect, and fulfillment of trust and treaty promises become America's first priority and obligation.

## A MESSAGE FROM KIRK E. FRANCIS, SR.

### THE CURRENT CRISIS OF DIMINISHING CIVILITY, COMPASSION, AND DECENCY UNFOLDING IN THE UNITED STATES *July 2018*



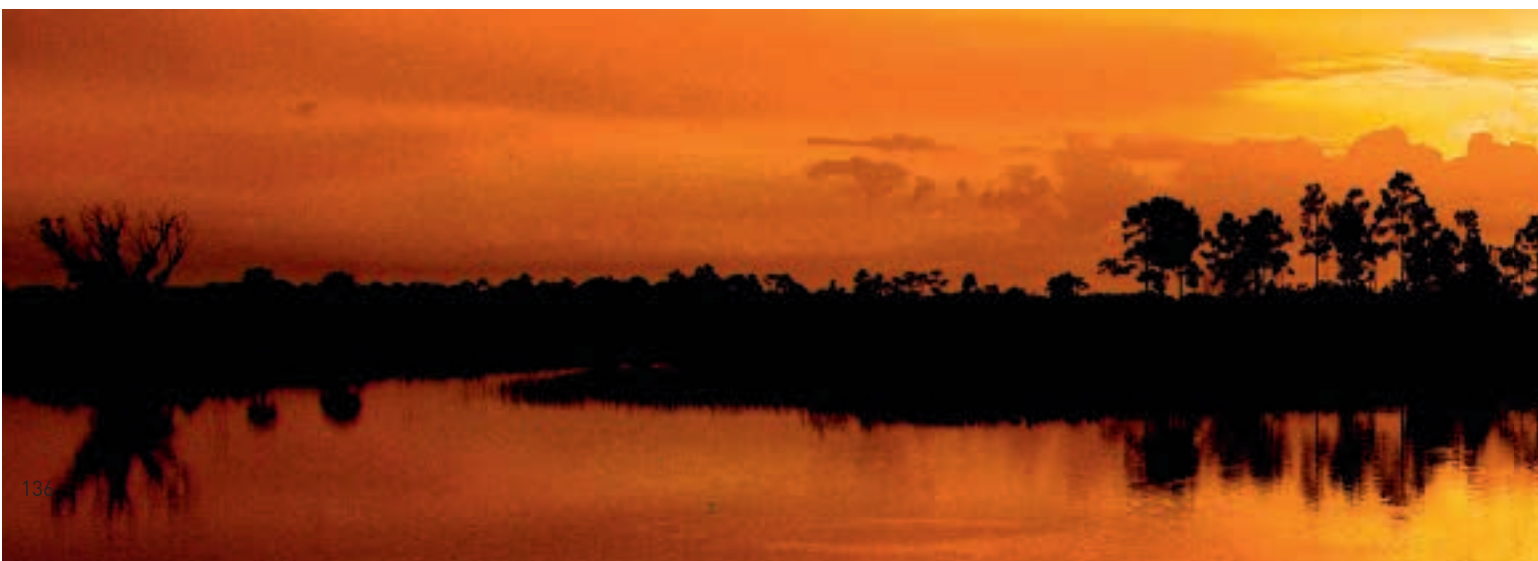
United South and Eastern Tribes, Inc (USET) & United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) President, Penobscot Indian Nation Chief **Kirk E. Francis, Sr.**

A crisis is unfolding in this country and it is one that jeopardizes the principles on which the United States was founded. In our founding documents, we profess our truths to be self-evident, and that “all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” However, the constant deluge of disheartening news headlines should cause a reasonable person to question whether we, as a nation, are holding ourselves accountable to these truths.

The recent separation of children from their parents resulting from a change in immigration policy, a federal action that Indian Country is far too familiar with, is particularly troubling. It is hard to imagine that anyone would lack the empathy and compassion to understand the pain and anguish that both the children and parents must be experiencing. I recognize that there are varying

opinions on how to address our current immigration situation, but it is unacceptable to allow people to suffer needlessly and to be used for political gain. The resulting pain and suffering, and likely long-term trauma, should have been anticipated and understood, which makes this deliberate and intentional act even more appalling.

Indian Country is particularly sensitive to headlines such as these. Indian Country has a long, complicated, and often conflicted relationship with the United States. We are viewing today’s headlines through different lenses, including genocide and intergenerational trauma. We are saddened as we are reminded of the many injustices that we experienced, together with this nation’s lack of accountability for its moral failings. As the indigenous peoples and sovereign nations that pre-date the United States, we know far too well the limits of these founding self-evident truths.



In fact, the challenges that we had to overcome, and still work to overcome, are the direct result of numerous federal policies and laws that sought to assimilate and terminate -- to destroy not only our cultures and traditions, but our existence. While one might assume that these policies and laws are from a bygone era, the truth is that we are only one generation removed from the horrors and atrocities that were committed.

Disrespect and disregard towards Indian Country continues today. Within the past several weeks, during a commencement speech to the 2018 graduating class of the U.S. Naval Academy, President Trump stated, "Together there is nothing Americans can't do, absolutely nothing. In recent years, and even decades, too many people have forgotten that truth. They've forgotten that our ancestors trounced an empire, tamed a continent, and triumphed over the worst evils in history...America is the greatest fighting force for peace, justice and freedom in the history of the world...We are not going to apologize for America."

These words reveal a dismissal and avoidance of the truth and facts about Tribal Nation-U.S. history which run counter to many of these words and for which America should be ashamed. More recently, despite repeated requests from Indian Country to stop his derogatory use of the name Pocahontas, President Trump once again used the name as an intentional slur during a June 2018 campaign stop in Nevada. These two recent examples serve as present-day reminders that there continues to be a need for greater understanding, education, awareness, truth, and respect.

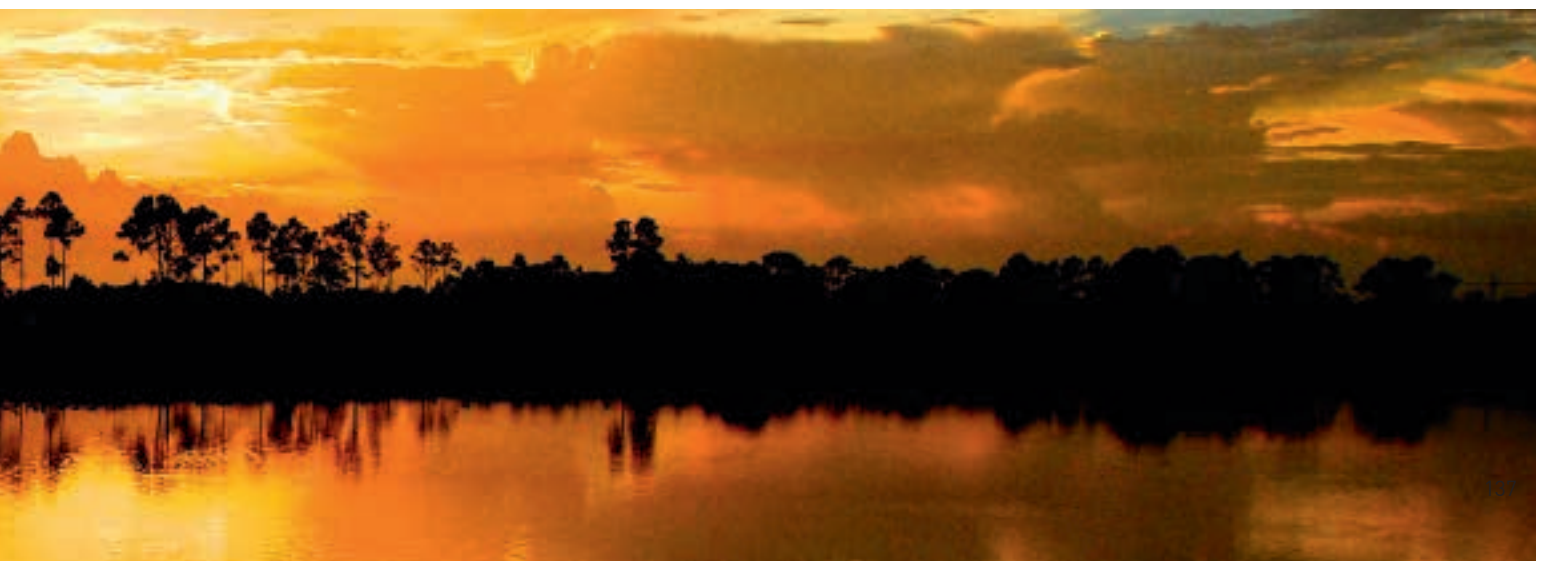
So when is enough, enough? I fear that too many are becoming desensitized and are normalizing these events and actions that we know in our hearts run counter to our childhood teachings of right versus wrong. The political discourse in this country has moved beyond political differences of opinion and is unlike any we have seen in recent history. It has exposed a truth about who we are; that there are fundamentally different views across this country about human dignity and respect, morals, values,

ethics, and justice which serve to weaken us as a society. The sad truth is that America is suffering, and she has lost her way. If we continue down the current path, the damage caused by the deconstruction of our founding principles, and the values that we profess to be the basis of our exceptionalism, may be too insurmountable to overcome.

However, we have the power to do better as a collective society should we choose not to normalize discord; should we choose common decency over politics; should we find the courage to lead with empathy, compassion, and love; should we find the strength to exemplify our convictions in our daily lives; should we recognize the greater law of universal justice and righteousness; and should we decide to recognize that we are all children of the Creator and that we are all related.

As the United States prepares to celebrate its establishment and its declaration of independence, let us remember our indigenous relations who suffered in the name of progress and manifest destiny. Let us remember the many who made the ultimate sacrifice as a reflection of their deep regard for the aspirational principles set forth in this country's founding documents. Let us reawaken to the truth that we share a common responsibility to one another, that division is diametrically opposite to the vision of America's founding ideals and aspirations, and that there is exponentially more good that comes from unity.

Let us use this time to remind ourselves of our common bonds, to reverse the current crisis that we are experiencing, and to begin the process of healing and reconciliation. Should we choose to do so, America will be stronger, its actions will once again reflect its professed self-evident truths, it will lead by example, and it will once again be the beacon of light, possibilities, and opportunities that the world aspires to emulate.





February 5, 2018  
Contact: Kitcki A. Carroll  
Phone: (615) 467-1540  
Cell: (615) 495-2814  
kcarroll@usetinc.org  
www.usetinc.org



**USET**  
SOVEREIGNTY PROTECTION FUND

## **USET Sovereignty Protection Fund President Kirk Francis Condemns Disgraceful Federal Indian Policies and Calls on Indian Country to Reawaken to its Own Power**

(Washington, DC)— In his opening remarks at United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) Impact Week, President Francis condemned all three branches of government for “centuries of paternalistic and shameful federal Indian policies.” He also expressed concern for the current situation in the United States, with the alarming increase in overt prejudice and abject racism.

“The roots of injustice and intolerance that were present from the very origins of this country, and that we mistakenly thought existed only as a faint image in our rearview mirror, have once again been exposed,” said Francis.

At the Impact Week meeting, Tribal leaders from 27 Tribal Nations across the south and eastern United States will discuss important topics such as Indian Country legislative priorities for 2018, current threats to sovereignty, and the battle against opioid addiction. After the posting of colors and prayer, meeting attendees listened to President Francis’s opening remarks.

Francis spoke of the revisionist history that pervades our schools and media and other U.S. institutions to this day: “We struggle with a system that seeks to hide these roots [of injustice and intolerance], to hide these truths, in an effort to preserve and reinforce a revisionist history that conceals the atrocities and reinforces its myths...an effort that attempts to dismiss these acts as acceptable and inevitable casualties in the march toward manifest destiny.”

Francis continued, saying “It is time for Indian Country to reawaken to its own power, to understand this power, and to leverage this power for the purpose of reclaiming our rightful place as strong sovereign indigenous governments and people with these lands. The moment, though hundreds of years in the making, is NOW.”

“It is no secret that our people have been waiting hundreds of years for the United States to keep its word; to live up to the agreements forged in the exchange of resources that are the bedrock of this nation’s strength and power,” said Francis. “When this day finally arrives—and we will not stop until it does—Tribal Nations and the United States will be able to move forward with a relationship rooted in diplomacy and mutual respect for each other’s inherent sovereign rights and authorities.”

USET SPF is a 501(c)(4) organization that focuses on educating Congress and the Executive Branch regarding issues challenging Indian Country and advocating for the policy and legislative needs of its member Tribal Nations. During Impact Week, Tribal Nations renew efforts to promote and protect the inherent sovereign authority of Tribal Nations.

USET President Kirk Francis has been chief of the Penobscot Indian Nation for 12 years. Before becoming Chief, he served in many leadership roles within the Penobscot Nation, and served three terms as a member of the Tribal Council.

USET Impact Week will take place Monday through Thursday, February 5-8, at the Marriott Crystal Gateway in Arlington, VA, and on Capitol Hill in Washington, DC.

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# 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

March 2018

## **Statement of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) on FCC Vote to Approve Wireless Report and Order Violating Trust Responsibility**

With today's vote, the FCC has rejected Tribal Nation offers to work on practical solutions for expediting the 5-G build-out without compromising Tribal historic preservation interests and environmental concerns. The sweeping exemption for all small wireless deployments, easily hundreds of thousands and perhaps millions of units, is irresponsible and unlawful. In voting to adopt the Report and Order, the FCC has acted in violation of its trust obligation to Tribal Nations—an obligation it does not owe to industry—as well as in violation of its own Tribal consultation policy by jamming through the Report and Order. The Report and Order endanger priceless cultural property and sacred sites in favor of the exaggerated and often unverified economic concerns of an industry that reports hundreds of billions of dollars in revenue annually. We are appalled by this action, which creates a profoundly false choice between 5-G deployment and Tribal cultural preservation. In the strongest possible terms, USET SPF condemns the unlawful Report and Order approved today. In the glaring absence of a commitment on the part of FCC to genuine consultation and mitigation of concerns, Indian Country is now forced to explore other means of preventing the implementation of this shameful Order.

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## **Statement of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) on FCC Commissioner Clyburn's Recommendation that Vote on Draft Wireless Report and Order Be Delayed**

USET SPF is pleased that in response to the strong objections of Tribal Nations, as well as concerns from federal agencies, the historic preservation community, localities, Congress, and numerous other stakeholders, Commissioner Clyburn is correctly recommending that tomorrow's scheduled Commission vote on its draft Report and Order be delayed. As it is currently written, the draft Report and Order has devastating implications for the protection of sacred Tribal cultural property and historic preservation, and was developed without anything approaching adequate Tribal consultation. Furthermore, its overbroad and unjustified reimagining of the National Historic Preservation Act and the National Environmental Policy Act is unlawful.

We continue to be deeply concerned that the draft Report and Order relies on a handful of unverified industry examples, as it proposes to upend a largely successful process and jeopardize existing legal protections and obligations to Indian Country. Yet again, USET SPF calls upon the entire Commission to withdraw the draft Report and Order and instead, consult with Tribal Nations on a set of best practices we developed in collaboration with the FCC over a decade ago. These best practices contemplate and address a majority of concerns expressed by the wireless industry and continue to be a viable model to ensure both the protection of Tribal cultural resources and the necessary deployment of wireless infrastructure in Indian Country and beyond. USET SPF again commits itself to open dialogue and true consultation on a path forward that protects sacred Tribal cultural property while addressing any legitimate concerns raised by the telecommunications industry.

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# AMERICA'S FIRST MORAL VIOLATION A NATIVE AMERICAN PERSPECTIVE IN RESPONSE TO TODAY'S AMERICAN DIVISION

*NativeNewsOnline.net, January 10, 2018*



**Kitcki A. Carroll** (Cheyenne and Arapaho Tribes of Oklahoma) Serves as the Executive Director for United South and Eastern Tribes, Inc. (USET) and the USET Sovereignty Protection Fund (USET SPF), an Inter-Tribal Organization representing 27 federally recognized Tribal Nations from Texas across to Florida and up to Maine at the Regional and National level.

**F**or a nation that presents itself to the world as the shining example of an exceptional democracy based upon the foundation of freedom and equality, America has an unacceptable and shameful level of inequality, racism, bigotry and intolerance. Despite our progress toward achieving "a more perfect union", perfection still eludes us. Perhaps the idea was always intended to be a work in progress. Nonetheless, it should be our priority to move closer towards this idea as expeditiously as possible with steadfast determination.

However, when reflecting on this past year, the unfortunate reality is

that we live in a divided and polarized country which is evidenced by events such as Charlottesville and the resurgence of hate groups such as the KKK, the debate over the NFL anthem protests, the culture war to define America, the disrespect displayed by President Trump towards Native Americans, and the complicit response by so many elected officials, during the honoring of Navajo Code Talkers, and many other examples too numerous to list. Together, they serve as examples of the ignorance and insensitivity that exists within society; ignorance and insensitivity that is directly attributable for much of our current division. These long standing issues of racial, gender, social and economic inequality, racial profiling, extreme political partisanship, judicial injustice, dominant society privilege, and many other issues, reflect the deeply rooted negative beliefs and values that remain today despite our hopes and aspirations for a more just and civil society.

As reflected in our Declaration of Independence, "...all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these

are Life, Liberty, and the Pursuit of Happiness." However, our current state has sharpened the focus on the truth that these principled beliefs about freedom and equality within our democratic experiment are absent in far too many who call themselves citizens, much less patriots, of the United States.

The irony is that while our founders may have held these beliefs for themselves, they did not apply these beliefs to my Native American ancestors. This inequality of equality dispensation to all people, and the oppression of others' freedoms and rights in order to pursue one's own, is part of our nation's origins. Despite the reflection of inspiring words reflected within our founding documents, our nation began with racism and inequality, and struggles with these first acts of moral violation by leaving them unresolved and unreconciled to this day. We are inextricably linked to our past and the root of today's challenges are directly attributable to this past. This is true despite great efforts to instill in all of us a revisionist historical understanding that is intended to conceal the truth. Our great nation has fallen woefully short of its moral and ethical responsibility to hold itself accountable for its past. This has prevented our nation from achieving truth and reconciliation with the many oppressed peoples who suffered and lost in the name of manifest destiny and American progress. To fulfill the aspirations of our Constitution, our nation can and must do better. The time has come to interrupt and dismantle this false narrative.

In the founding of America, acts of genocide were committed against my ancestors to allow others to pursue life, liberty, and the pursuit of happiness in our native lands. Absent was a moral compass, but present was an arrogance and belief of divine superiority above all others. These proclaimed "discoverers" and "founders" used the Doctrine of Discovery as the justification for their immoral acts. Nothing, including a moral and ethical conscious, was allowed to impede their efforts to colonize, dominate, and lay claim to that which did not belong to them; nothing impeded their efforts to kill and conquer a people who they viewed as less than human. We were viewed as nothing more than an interference and acceptable casualties in their quest for conquest and domination. These first actions by our nation have left an indelible stain on the character, integrity, and consciousness of this country.



Despite efforts by this country to assimilate, terminate, and marginalize us, Indian Country has persevered. While we have many reasons to be resentful, we have instead chosen truth, love, and reconciliation as the alternative path forward. While we are a forgotten people in our own lands, there is a tremendous opportunity for us as Native Americans to provide stewardship and leadership during these tumultuous times; rooted in our understanding, respect, and reverence for these lands and all its children. These are the lands of our creation story; the lands where the bones and spirits of our ancestors rest. We are connected and invested in these lands in a way that no other people can claim. As such, we are responsible and must hold ourselves accountable for their protection, care, and reverence.

Like so many others, I am troubled by the current state of our union. But unlike others, Native Americans are not surprised by the underlying racism, injustice, and inequality that has recently found itself prominent in the mainstream conversation and national dialogue. Many of today's challenges are not new, but nevertheless, we must all rededicate ourselves to moving forward with steadfast determination to find solutions to these deep rooted challenges; to come together; to make advancements toward a more perfect union. However, in order to best understand our present challenges, every citizen has a moral responsibility to better understand our nation's history, including those actions that do not fit nicely into the narrative of greatness and exceptionalism. In doing so, the negative societal flaws that still plague us today will be better understood.

In times such as these, we must all find our inner strength, our calling, and our purpose. We must not sit

silently on the sidelines and turn a blind eye to the many ills that still plague our country. We must recognize that change only occurs when we accept personal accountability. Our actions today will ensure that our children's children will live in a world where all our relations and the planet is respected. In the end truth, justice, and righteousness will prevail as they stand firmly at the peak of the moral high ground.

The many natural disasters this past year that so negatively impacted the lives of many, regardless of one's race, creed, or color, serve as examples of how people can come together to support one another despite our individual differences. While the actions displayed by so many in response to these disasters did not solve our long-standing challenges as a society, they clearly demonstrate our potential as a people.

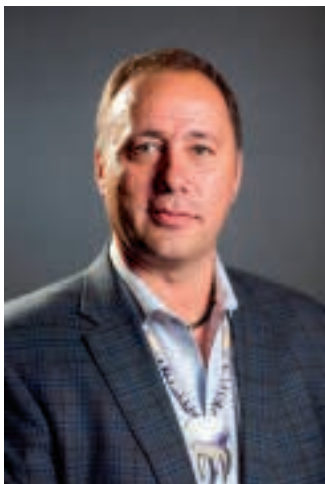
Some day we will demonstrate a greater accountability for our actions by telling our complete and truthful story of America; a truth no longer rooted in historical amnesia, but one that dismantles the institutionalized false narrative. In doing so, we will better exemplify exceptionalism as a nation to the rest of the world, but more importantly...to ourselves.

As we embark upon a new year, I pray that we will all choose to see ourselves as relatives who share a common humanity and a common interest in peace and prosperity. I pray that we will finally resolve our division and move our nation forward in greater solidarity. In doing so, we will achieve a future where all the Creator's children are treated with dignity, respect, and love; a future where the founding words and vision for our democratic experiment do not ring hollow.



# AN OPEN LETTER TO PRESIDENT TRUMP REGARDING RECENT REMARKS DISPARAGING NATIVE PEOPLE

November 28, 2017



United South and Eastern Tribes, Inc (USET) & United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) President, Penobscot Indian Nation Chief **Kirk E. Francis, Sr.**

Dear Mr. President,

On the heels of Thanksgiving and at the conclusion of Native American Heritage Month, a month set aside each year with the purpose of recognizing the significant contributions that America's first peoples have made to the United States, I was saddened, shocked, and appalled by the level of disrespect you displayed during yesterday's honoring of World War II Native American Code Talkers. Your continued use of the name "Pocahontas" in a derogatory manner, and for partisan political gain, is not only an insult and dishonor to her legacy, but an insult to all Native peoples. Furthermore, to honor the sacrifice and bravery of these warriors with a portrait of President Andrew Jackson in the foreground is tone deaf, at best, considering the deplorable and shameful acts that he committed against Native peoples as a General and as President of the United States.

Mr. President, your words yesterday run contrary to those you set forth as part of your recent Native American Heritage Month Proclamation in which you stated the following:

"American Indians and Alaska Natives are inextricably linked with the history of the United States. Beginning with the Pilgrims' arrival at Plymouth Colony and continuing until the present day, Native American's contributions are woven deeply into our Nation's rich

tapestry. During National Native American Heritage Month, we honor and celebrate the first Americans and recognize their contributions and sacrifices. Native Americans have influenced every stage of America's development. They helped early European settlers survive and thrive in a new land. They contributed democratic ideas to our constitutional Framers. And, for more than 200 years, they have bravely answered the call to defend our Nation, serving with distinction in every branch of the United States Armed Forces. The Nation is grateful for the service and sacrifice of all American Indians and Alaska Natives. My Administration is committed to tribal sovereignty and self-determination. A great Nation keeps its word, and this Administration will continue to uphold and defend its responsibilities to American Indians and Alaska Natives. Together, we will strengthen the relationship between the United States Government and Native Americans."

Mr. President, these proclamation words properly convey the respect and dignity that we deserve, which were unfortunately woefully absent from yesterday's event. They convey an understanding about the role, influence, and sacrifice of Natives towards the growth, development, and prosperity of this country; a country which has ultimately become the strongest, wealthiest, and most influential governing power the world has ever known.



*Mr. President, as you stated in your proclamation, not only does a great Nation keep its word, but its exceptionalism is directly attributable to its ability to forge truth and reconciliation with its shameful and immoral acts. It is no secret, however, that our people have been waiting hundreds of years for the United States to keep its word; to look us in the eye as sovereign nations and live up to the agreements forged in the exchange of resources. In doing so, Tribal Nations and the United States will finally be able to move forward with a relationship rooted in diplomacy and mutual respect for each other's inherent sovereign rights and authorities.*

*Mr. President, as Native Americans, we are most often a marginalized and forgotten people in our own homelands. However, despite a legacy of numerous federal assimilation and termination policies against us, we have persevered against the greatest of odds. We continue to contribute to the story, prosperity, economy, culture, and defense of this great country. And yet, we continue to face the indignity of our stories being told for us in ways that devalue and ignore these contributions, stories which misrepresent America's role in the atrocities committed against our people. It is nothing less than a slap in the face, then, to watch you perpetuate this disparagement at an event meant to "honor" us.*

*Mr. President, as you stated in your remarks yesterday, Native peoples have been here "long before anyone*

*else". As you also stated during your election victory speech not so long ago, "the forgotten men and women of our country will be forgotten no longer." With both of these sentiments in mind, we deserve much better than what was offered yesterday. Grave injustices have been perpetrated against Native peoples since the beginning of this democratic experiment. It is time for Native Americans to finally receive the honor and respect we rightfully deserve in our own lands.*

*Mr. President, Tribal Nations stand ready to forge a better tomorrow for all humanity in partnership with the United States. A great Nation does keep its word and the first step toward fulfillment of America's promises is not just words, but action. While yesterday's offensive display was a giant step backward in our relationship, there is still time for you to actually deliver on the sacred promises made to the first peoples of this land. You possess the power and opportunity to create change for the good; the power and opportunity to heal and unify instead of divide. You can choose to do better. You must do better. The moment, though hundreds of years in the making, is now.*

*Sincerely,*

**Kirk Francis**

*President of USET SPF/USET*

*Chief of the Penobscot Indian Nation*



**Kitcki A. Carroll**



**Liz Malerba**

Kitcki A. Carroll (Cheyenne and Arapaho Tribes of Oklahoma) Serves as the Executive Director for United South and Eastern Tribes, Inc. (USET) and the USET Sovereignty Protection Fund (USET SPF), an Inter-Tribal Organization representing 27 federally recognized Tribal Nations from Texas across to Florida and up to Maine at the Regional and National level.

Liz Malerba (Mohegan Tribe) is the director of policy and legislative affairs for the United South and Eastern Tribes Sovereignty Protection Fund. Located in Washington, DC, she works with congress and the administration to advance a comprehensive legislative and regulatory agenda on behalf of member tribal nations.

# FROM CONSULTATION TO CONSENT

*Tribal Business Journal, December 2016*

**B**eginning with the arrival of the colonists, who asserted a God-given right to dominance, and evolving over time to a position of superior sovereign existence, U.S.-Tribal relations continue to be marred by the deeply false narrative that Tribal Nations are incompetent and unworthy of genuine diplomacy. For centuries, Tribal Nations have been attempting to reverse this false narrative.

In its early formative years, the United States often took action within our lands only after securing our consent, including through treaty-making. As it became more powerful, as maintaining strong relations with us became less necessary, as greed took over and as the courts laid their legal groundwork through the Marshall trilogy, the United States quickly moved from an approach based on consent to an approach based upon the notion of domestic dependency and plenary authority.

The United States progressively moved away from the concept of “rights-ceded” by Tribal Nations (as was the approach during the formative years of this nation) to a model of “rights-granted” by the United States to Tribal Nations. No longer was our consent necessary for the explosion of a capitalistic system. No longer were our rights within our own lands of concern or consequence. No longer were we going to be allowed to interfere with the execution and pursuit of manifest destiny. This is the summation of the deplorable actions taken in the name of progress that is most often missing from U.S. history books, but it is part of our story, which fuels our efforts to persevere and prosper despite the greatest of challenges. Despite all of this, Tribal Nations remain unified in our efforts to topple these foundational myths, as our perseverance and the sophistication of our governments reveal these to be falsehoods.

It wasn't until the passage of the Indian Self-Determination and Education Assistance Act in 1974 that the United States began to move away from its centuries-old practice of setting policy that sought to diminish and eradicate our sovereignty via termination and assimilation.

While the U.S. has not returned to a practice of seeking the consent of Tribal Nations, the developing Tribal consultation process begins to recognize our inherent rights and authorities when it comes to federal decisions that impact our citizens and homelands.

Over the last eight years, federal agencies have been required to develop and implement Tribal consultation policies in collaboration with Tribal Nations. While an improvement over historical practice, it requires constant monitoring and strengthening, and will always fall short as long as it fails to return to a model that requires consent.

Tribal Nations continue to experience inconsistencies in consultation policies, the violation of consultation policies, and mere notification of federal action as opposed to a solicitation of input. Time and again, Tribal Nations have expressed a desire for consultation to be more meaningful. As major failures in the U.S.-Tribal consultation process begin to take the national stage, Tribal Nations are calling for a paradigm shift in the trust relationship, including in the consultation process.

The U.S. must move beyond an approach that merely “checks the box” of consultation. It is time for a Tribal Nation defined model, with dual consent as the basis for strong and respectful diplomatic relations between two equally sovereign nations. In the short term, we must move beyond the requirement for Tribal consultation via executive order to a strengthened model achieved via statute. In the long term, we must return to a model of Tribal Nation consent for federal action as a recognition of sovereign equality and as set out by the principles of the United Nations Declaration on the Rights of Indigenous Peoples. Ultimately, Indian country recognizes that dual consent results in prosperity for both parties, and that when abandoned and dishonored, one or both nations ultimately lose. The U.S. must join us in this conviction.

As the U.S. continues to issue federal Indian policy based on a false premise, it is more critical than ever for Tribal Nations to assert our inherent sovereign authorities and rights in order to provide for the well-being of our people and our lands. No longer can we accept a false narrative and legal fiction that was specifically created by another sovereign to impose its will upon us. Consultation must evolve and return to consent. The current trust model, which often works against us, must be replaced with a 21st century nation-to-nation relationship model and a genuine commitment to only take action aimed at strengthening this relationship and delivering on the trust responsibility in full.



*At the USET/USET SPF Impact Week Meeting in 2019, a new eagle staff was dedicated by the Board of Directors. This eagle staff represents the strength and unity of USET/USET SPF member Tribal Nations. Further, the eagle staff signifies the commitment to represent our united interests to support our common welfare and benefit which now spans fifty years. Eagle staffs are often associated with warrior societies and traditions, and this eagle staff symbolizes the strong, assertive, diplomatic, and passionate approach of our leaders and the organization overall. Elements of this eagle staff have special meaning: the maple staff represents one of the first medicines gathered each year, the dreamcatcher and its sacred hoop instill protections, the otter wrapping reflects the journey of our peoples on this land, the red banner represents the valor and enduring spirit of our people, and the eagle feathers impart sacredness and reflect the spiritual resolve of our purpose and unity.*





Thank you to our founders and  
the entire USET family.

Sgi – Eastern Band of Cherokee Indians  
Shonaabesha – Miccosukee Tribe of Indians of Florida  
Yakókih – Mississippi Band of Choctaw Indians  
Sho Na Bish – Seminole Tribe of Florida

*Because There is Strength in Unity*





*Approved by the USET/USET SPF Board of Directors as part of its 50th Anniversary milestone, the logo on the cover now includes a tree at its center. The four roots of the tree are representative of our four founding member Tribal Nations—Eastern Band of Cherokee Indians, Miccosukee Tribe of Indians of Florida, Mississippi Band of Choctaw Indians, and Seminole Tribe of Florida. Without their vision, courage, and dedication to elevate the voice of the Tribal Nations of the south and east, USET/USET SPF would not exist today. The tree is symbolic of the collective strength of our membership and its commitment to stand together as a unified family of Tribal Nations.*

*The tree used in this representation is the Council Oak, a historic tree on the Hollywood Seminole Indian Reservation. In the 1950s, Tribal leaders held various meetings with federal officials under the tree, culminating in the federal recognition of the Seminole Tribe of Florida on August 21, 1957. The significance of the Council Oak was recognized on December 4, 2012, when the site was added to the National Register of Historic Places.*





711 Stewarts Ferry Pike, Ste 100  
Nashville, TN 37214  
phone 615-872-7900

400 North Capitol St NW, Ste 585  
Washington, DC 20001  
phone 202-624-3550

**USETinc.org**