



USET

SOVEREIGNTY PROTECTION FUND

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Transmitted via email

August 17, 2021

Senator Lisa Murkowski
Vice Chairman
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

Dear Vice Chairman Murkowski,

On behalf of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we write to you in your capacity as Vice Chairman of the Senate Committee on Indian Affairs (SCIA). USET SPF and its member Tribal Nations stand ready to work with you on advancing, protecting, and promoting the inherent sovereign rights and authorities of Tribal Nations. This includes removing barriers to the full management and control of our own affairs and destiny, as well as working to ensure the federal government delivers on its promises to Indian Country and upholds our sovereign status under the law through parity with other units of government.

As you continue to exercise leadership in this role, USET SPF would like to take the opportunity to begin a conversation regarding the future of our government-to-government diplomatic relationship, as well as the unique priorities, circumstances, and vision of USET SPF member Tribal Nations. As the Vice Chair of SCIA, you play a critical role in elevating the voices of Indian Country—particularly among your Congressional colleagues—as well as delivering upon the federal government's trust responsibility and obligations.

With your leadership role comes the expectation that you will advocate for and demand the inclusion of Indian Country's priorities in all relevant legislation before the Senate. While we appreciate the amplification of these priorities through the work of the Committee via hearings, letters, and relevant legislation, it is equally, if not more, important that the members of this committee—especially leadership—use this role to elevate our voices in other committees, as well as on the Senate floor. We recognize, appreciate, and applaud, for example, your strong advocacy around the recent infrastructure bill, which was critical in achieving the inclusion of Tribal provisions. In the spirit of education and awareness, Indian Country expects you, and all SCIA members, to consistently carry our messages into conversations with colleagues who may be less familiar with the trust obligation, while fighting for our inclusion in all relevant measures before Congress. And, as has been longstanding SCIA tradition, this advocacy must occur on a non-partisan basis, as perpetual trust and treaty obligations supersede party interests. With this in mind, it is critically important that you have a more complete understanding of and appreciation for the rich diversity that exists across Indian Country, including in the USET SPF region.

Because there is Strength in Unity

About USET/USET SPF & Member Tribal Nations

USET SPF is a non-profit, inter-tribal organization based in Washington, DC advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

In addition to the education and advocacy USET SPF conducts in Washington, DC, United South and Eastern Tribes (USET), our 501c3 sister Tribal organization headquartered in Nashville, TN, delivers programmatic support services to our member Tribal Nations within our core competency areas of health, environment and natural resources, and economic development. This dual relationship is unique within the world of Tribal organizations. USET SPF advocates for positive policy change that will advance Tribal sovereignty and the Nation-to-Nation relationship, and USET assists Tribal Nations in implementing these policies through the provision of technical assistance and support services. With one organization operating at the federal level and one operating closer to the Tribal Nation level, our advocacy is informed by more direct experience and insight into the impacts of federal actions.

Our regional footprint is quite large, and as a result, our member Tribal Nations come from extremely diverse circumstances and traditions. Collectively, our member Tribal Nations represent varied cultures, backgrounds, structures, and socio-economic interests—much like those found more broadly throughout Indian Country. Because of this, our consensus positions often reflect an all-inclusive point of view that can be applied nationally. While the membership of our organization is regional in nature, the wide variety of issues that we take on organizationally are generally national in scope.

Because of where we are located, our member Tribal Nations were the first to contend with 17th and 18th-century local colonial governments and distant European nations at the onset of colonization in North America. We engaged in treaty-making with both the British Crown (in addition to other foreign governments) and the nascent American government. And we faced colonial wars and disease, which devastated our populations. Our relationship with the U.S. government involves a lengthier history of destruction, destabilization, termination, and assimilation than the Tribal Nations of many other regions throughout the country. Indeed, our region served as a 'testing ground' for some of the most horrific and shameful federal policies visited upon Tribal Nations and Native American people. While all Tribal Nations are working to rebuild in the wake of destructive federal policies and actions, many USET SPF members are doing so from positions of greater and more extensive loss of population and land, as well as natural and cultural resources. In spite of this, our story is one of triumph, as we have persevered over the last 400+ years against the greatest of odds and in the face of a centuries-long campaign to eradicate our people and governments.

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Promoting, Protecting, and Advancing Inherent Tribal Nation Sovereignty

With the guidance, direction, and support of our Tribal leader Board of Directors, USET SPF advocates for actions that will help us to provide essential government services for our people, increase the exercise of our inherent sovereignty and self-determination, and uphold the Nation-to-Nation relationship between the United States and Tribal Nations, as well as deliver upon the unique trust and treaty obligations owed to us by the federal government.

We are also committed to educating the American public, including Congress, through the promotion of truthful narratives about Tribal Nations and Native American people. USET SPF maintains that the United States must confront its own shameful history, including the atrocities committed against our ancestors and the theft of our lands and resources. It is time for this country to acknowledge and reconcile the complete and truthful story of our relationship—starting with our elected leaders.

USET SPF is seeking justice amid a reckoning with America's past, as well as a commitment toward a more honorable future. We have consistently called upon the United States to deliver and fulfill its sacred promises to Tribal Nations and to act with honor and honesty in its dealings with Indian Country. But the global pandemic has exposed for the world to see the extent to which generations of federal neglect and inaction have created the unjust and untenable circumstances facing Tribal Nations. The time is long overdue for a comprehensive overhaul of the trust relationship and obligations, one that results in the United States finally keeping the promises made to us as sovereign nations in accordance with our special and unique relationship.

Tribal Consultation and Fulfillment of Trust & Treaty Obligations

The trust framework is a diplomatic, Nation-to-Nation relationship between Tribal Nations and the federal government only. This relationship is built upon the sacred agreements made between the United States government and Tribal Nations. All branches of the federal government have a trust obligation to Tribal Nations.

Similarly, Tribal Nations are the only units of government to which the federal government has a trust obligation. The federal trust obligation is the result of the millions of acres of land and extensive natural resources ceded to the United States, oftentimes by force. It exists in perpetuity and is not delivered on the basis of poverty or diminished by a Tribal Nation's economic success. The federal resources delivered to Tribal Nations are payments on the debt owed to us for the cession of our land and resources. This debt exists regardless of a Tribal Nation's economic circumstances.

Self-Governance as an Expression of our Inherent Sovereignty

A majority of our member Tribal Nations engage in self-governance by assuming and compacting or contracting federal government programs to provide essential government services, including education, housing, health care, and public safety. Self-governance provides a fiduciary model that acknowledges the inherent rights and authorities of Tribal Nations to determine our own destinies. Rather than relying upon the paternalistic model of the provision of direct services by the federal government or a non-profit model via grantmaking, Tribal Nations should be the sole decision-makers in the administration of federal programs and funding in our communities.

Tribal Nations have engaged in sophisticated forms of self-government since time immemorial. This was initially recognized by the founders of the United States, although the federal government later moved on to an approach based upon the notion of domestic dependency and plenary authority. The result was a paternalistic approach by the United States. Though numerous barriers exist to the full exercise of our inherent sovereignty, Tribal Nations have demonstrated that we are best positioned to deliver essential government services to our citizens, including through the assumption of federal programs and services. It

is only when Tribal Nations have the opportunity to fully exercise our inherent sovereignty that Indian Country will realize its great potential.

USET SPF member Tribal Nations are united in our support for the expansion and evolution of self-governance throughout the federal government. As we have stated on numerous occasions, the goals of self-governance have not been fully realized. Many opportunities remain to improve and expand upon its principles. An expansion of Tribal self-governance to all federal programs under ISDEAA would be the next evolutionary step in the federal government's recognition of Tribal sovereignty and reflective of its full commitment to Tribal Nation sovereignty and self-determination. At the same time, it remains vitally important that the direct services, oversight, and administration the federal government continues to provide in fulfillment of trust and treaty obligations are fully funded.

Priorities for the 117th Congress

USET SPF continues to seek foundational and systemic change to our relationship with the United States; change that will lead to a more appropriate, respectful, honorable, and modern diplomatic relationship for the 21st century. 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 the federal government 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.

From our perspective and given the inflection point in which the United States finds itself, the SCIA has a unique opportunity during this Congress to enact bold, transformative policy that will have lasting impacts on the trust obligation and relationship. With this in mind, we offered [testimony for the record](#) of SCIA's first hearing of the 117th Congress to identify early items of interest and opportunities for collaboration. This is by no means an exhaustive list of priorities for our member Tribal Nations, who, as governments, have broad and diverse interests across a host of issue areas. However, we view the priorities outlined in our testimony as the foundation for our initial engagement.

Above all, USET SPF calls upon SCIA and the 117th Congress to join us in working toward a legacy of change for Tribal Nations, Native people, and the sacred trust relationship. The COVID-19 pandemic has underscored the urgent need for radical transformation in the recognition of our governmental status and the delivery of federal obligations our people. We can no longer accept the status quo of incremental change that continues to feed a broken system. The federal government must enact policies that uphold our status as sovereign governments, our right to self-determination and self-governance, and honor the federal trust obligation in full. We look forward to partnering with this Committee in an effort to advance these policies in the coming months and years.

Further reading on USET SPF's priorities:

- [Testimony before the U.S. Commission on Civil Rights re: Updating the Broken Promises Report during the COVID-19 Public Health Crisis](#)
- [Letter to Secretary Haaland re: the Reestablishment of the White House Council on Native American Affairs](#)
- [Letter to the Office of Management and Budget re: COVID-19 funding Impact on IDC Rates](#)

Conclusion

USET SPF looks forward to a meaningful and productive working relationship with you as the SCIA Vice Chair. Coming from Alaska, it is important to recognize that the interests, requirements, and priorities of Tribal Nations from the USET SPF region, and across the country, are often different from those of the

Alaska Native community. We would welcome the opportunity to provide you with further information on our unique and diverse histories, as well as partner with you in ensuring the diversity of Tribal Nations across the country is recognized and celebrated. It is our hope that meaningful dialogue and partnership with you helps to inform policy-making that reflects a commitment to Tribal sovereignty, the trust obligation to Tribal Nations, and the rich diversity within Indian Country. Should you have any questions or require additional information, please do not hesitate to contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at (615) 838-5906 or by e-mail at lmalerba@usetinc.org.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Francis", with a long horizontal flourish extending to the right.

Chief Kirk Francis
President

A handwritten signature in black ink, appearing to read "K. A. Carroll", written in a cursive style.

Kitcki A. Carroll
Executive Director