



USET

SOVEREIGNTY PROTECTION FUND

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April 24, 2023

Darryl LaCounte
Director
Bureau of Indian Affairs
1849 C Street NW
Washington, DC 20240

Dear Director LaCounte,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Tribal consultation conducted by the Bureau of Indian Affairs (BIA) on April 18 and 20, 2023 regarding \$2 million appropriated annually for land acquisition for newly recognized and landless Tribal Nations. USET SPF continues to be encouraged by BIA's focus on Tribal homelands restoration, including through the budget process. As you know, Tribal land base is a core aspect of Tribal sovereignty, cultural identity, and represents the foundation of our Tribal economies. And as a partner who shares in the trust relationship, it is incumbent upon the federal government to prioritize and defend the restoration of our land bases, including sacred and cultural sites. We share BIA's hope that this nascent program will grow in funding and reach, becoming a vital part of the process in the federal government's effort and obligation to restore Tribal homelands.

USET SPF is a non-profit, inter-tribal organization 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.

Land Loss and Restoration in the USET SPF Region

Because of where we are located, USET SPF 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, in addition to later treaty-making with the United States. And we faced colonial wars and disease, which devastated our populations.

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), 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), Mi'kmaq Nation (ME), 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).

Because there is Strength in Unity

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 imposed upon Tribal Nations and Native American people. While all Tribal Nations are working to rebuild in the wake of these 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 the wake of these policies, a majority of USET SPF Tribal Nations today hold only a fraction of their homelands and some are currently landless.

USET SPF member 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. However, we face numerous barriers to the just return and control of our homelands, including a burdensome, complicated, and protracted land-into-trust process, the inequity resulting from the Supreme Court decision in *Carcieri v. Salazar*, Restrictive Settlement Acts, and the application of archaic laws that refuse to recognize our status as sovereign governments.

The Biden Administration has committed to honoring Tribal Nation sovereignty and self-determination, and this cannot be truly accomplished for Tribal Nations unless we have homelands from which to build and govern. We are encouraged by the Administration's approach for protecting and restoring Tribal homelands and urge the continued implementation of policies designed to facilitate the restoration of as much Tribal land as possible, to ensure the protection of Tribal homelands, and to maximize the exercise of our inherent Tribal sovereignty in the management of our homelands.

Funding for Land Acquisition for Newly Recognized and Landless Tribal Nations

Under the Consolidated Appropriations Act, 2023, the BIA was appropriated an additional \$2 million for land acquisition efforts on and off current reservations to support sustainable land practices. The increase supports self-determination on Tribal trust land and natural resources and enhances Tribal authority. According to BIA, "the land acquisition effort is intended to foster and restore lands to new and landless Tribes, at Regional authority levels, for the development of conservation practices, law enforcement, applicable regulatory policies, and sustainable Tribal communities and economic development."

With many newly (and recently) federally recognized Tribal Nations as our members, and given the circumstances of our region, USET SPF has consistently supported additional federal funding for and prioritization of initial lands acquisition. It is our principled position that every federally recognized Tribal Nation should have the opportunity to restore its land base through the land-into-trust process and that the federal government should account for and facilitate this as a part of the federal recognition process.

We recognize that the Biden Administration has requested \$10 million annually for this purpose, far more than what has ultimately been appropriated by Congress. We further recognize that this funding level likely presents BIA with some limitations in what is able to accomplish initially. It is with this in mind that we offer the following recommendations and comments:

BIA Should Prioritize Tribal Nations that are both Newly Recognized and Landless

USET SPF supports BIA's proposed definitions for both newly recognized and landless Tribal Nations. However, we encourage the agency to combine these definitions when it is determining level of "need" for land acquisition. Many Tribal Nations, including many in our region, meet both definitions—a shameful, yet ongoing, reality given our regional history. It is these Tribal Nations,

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who await a land base after centuries of dispossession, that should be first in line for BIA land acquisition assistance.

Project Readiness May Not Be Appropriate Criteria

While we understand that BIA is likely contending with funding obligation deadlines, prioritizing those acquisitions that are most ready may disadvantage those Tribal Nations who would most benefit from this assistance. For example, the most recently recognized Tribal Nations are less likely to have resources which would enable them to best position their homelands for acquisition. We suggest that BIA focus on ensuring that Tribal Nations whose lands are not the most 'project ready' also benefit from this funding, whether it be through increased technical assistance or some other means.

Conclusion

USET SPF continues to extend its appreciation this Administration, the Department of Interior, and BIA for this renewed focus on the protection and restoration of Tribal homelands, and efforts to ensure that the federal government better serves these aims. We will continue to extend our strong support to increased and sustained funding for Tribal land acquisition. Please count us as a partner in your efforts to secure Tribal homelands and uphold our sovereignty in their management. Should you have 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 email at lmalerba@usetinc.org.

Sincerely,



Kirk Francis
President



Kitcki A. Carroll
Executive Director