



USET

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Joan Mooney
Principal Deputy Assistant Secretary
Office of Policy, Management and Budget
Department of the Interior
1849 C St. NW
Washington, DC 20240

Dear Principal Assistant Secretary Mooney,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Department of the Interior's (DOI) planned update to its Climate Adaptation Plan (CAP). This update is intended to succeed the existing, "Climate Action Plan", issued on October 7, 2021, as well as comply with Executive Order 14008, "Tackling the Climate Crisis at Home and Abroad"; Sec. 5(d) of Executive Order 14030, "Climate-Related Financial Risk"; and Sec. 503 of Executive Order 14057, "Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability." The planned update to the CAP intends to outline actions to address climate hazards through DOI investments and changes to policy, budgeting, grant funding, and training. DOI is seeking Tribal Nation input on several topics related to the potential content of the updated CAP, such as what data and knowledge sources should be considered to assess climate risk; how to address exposure to climate hazards for resources holding special cultural or natural significance; incorporate climate resilience and accessibility for Tribal communities in grant and funding opportunities; and identify barriers to climate adaptation and resilience efforts for Tribal Lands and communities. USET SPF's comments provide specific responses to these questions posed by DOI, as well as support for compliance with Executive Order 14112 as a critical component DOI must include in its updated CAP and beyond.

USET Sovereignty Protection Fund (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.

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

USET SPF Tribal Nations: A Historical Context

Much of the current broad understanding of Tribal Nations and historical context within this country stems from the 19th century, when the United States and settlers expanded westward. Tribal Nations were forced to sign treaties, cede large tracts of land, and reside on reservations, yet were promised autonomy and support from the federal government to manage natural resources, education, and health care. Tribal Nations within the USET SPF region also signed treaties and were forced to cede lands. However, many USET Member Tribal Nations are “First Contact Nations” and faced 17th and 18th-century local colonial governments and distant European nations at the onset of colonization of North America. Many of the hostile federal policies visited upon Tribal Nations during westward expansion were developed and piloted in our region.

USET SPF Tribal Nations have persevered despite colonization and federal policies of assimilation, termination and other events that have unfolded over the past 400 years. Despite disease, warfare, and removal, our Tribal Nations have persisted and continue to exhibit profound resilience. In environments considered harsh to European and American settlement such as the Gulf Coastal Bayous, the Everglades, the Appalachians, or the Northern Forests, USET SPF Tribal Nations not only survived, but adapted and rebounded as communities and Nations. Tribal communities even integrated into more populated landscapes, have maintained self-governance and distinct cultural identities tied to cultural and traditional homelands and family kinship systems. The 20th century witnessed a rebound in population of Indigenous communities within the USET SPF region and a resurgence of Tribal voices on a national platform to promote Tribal sovereignty and self-determination, management of natural resources on remaining Tribal Lands that are now mere fractions of once held territories, and the restoration of Tribal Lands lost to the colonies and early states.

As USET SPF’s member Tribal Nations continue to pursue efforts in Nation rebuilding, the ever-increasing harmful effects of climate change are having lasting impacts on Tribal Lands, seascapes, waters, and communities. As this continent’s first peoples, Tribal Nations have witnessed and adapted to glacial retreats, sea level rise, and changes in the climate that have occurred over thousands of years. However, Tribal Nations are now contending with a rapidly changing climate – one that is human-induced by greenhouse gas emissions and changing not over thousands of years, but over mere decades. As a result of these drastic changes, we have been forced to mitigate and adapt to climate change while trying to protect the health and wellbeing of our communities, lands, and waters on a fraction of our original homelands, as well as seek assistance for relocation efforts and the protection of our cultural and natural resources that are now submerged, or under threat of submergence, due to rising tides and sea levels.

On average, Tribal Nations retain jurisdiction over approximately 2.6% of our original Tribal homelands. Although Tribal Nations across the United States have regained the management of natural resources for over 100 million acres of Tribal homelands, USET SPF member Tribal Nations continue to have substantially smaller Tribal Land bases from which to assert direct jurisdiction and management of natural resources, and climate change impacts to these vulnerable land bases pose serious threats to Tribal cultures and lifeways. Often, fish and wildlife, traditional foods, medicinal plants, and places of cultural significance, some of which may be outside of our jurisdictional boundaries, are impacted by climate change. This means Tribal Nations must work with federal, state, and local jurisdictions to address climate change impacts on natural resources of cultural, economic, and public health significance beyond Tribal Lands. At best, institutional barriers arise as the interests and management plans of non-Tribal jurisdictions often do not align with Tribal priorities or cultural values. At worst, Tribal Nations are not even included in local and regional plans that would have implications for our natural resources and areas of cultural significance.

Specific Responses by USET SPF to DOI on Updating its Climate Adaptation Policy

Moving forward, the federal government must uphold its trust and treaty obligations to protect and safeguard our communities, our areas of sacred and cultural significance, and our cultural, natural, and environmental resources from the ongoing harmful effects of climate change. This includes adopting long-term funding and programmatic solutions for Tribal Nations to participate in climate resiliency and adaptation efforts actively and successfully. DOI's efforts to update its Climate Adaptation Plan (CAP) must reflect these priorities for Tribal Nations. USET SPF offers the following responses and recommendations to DOI that were posed in its Dear Tribal Leader Letter announcing its intention to update the CAP—

- **What data and knowledge sources should we consider as we assess climate risk?**

USET SPF has consistently supported the Biden-Harris Administration's commitment to elevating Indigenous Knowledge in federal policy decisions. This also represents a partial solution to management of public lands not held in trust. Tribal Nations, being the sovereign First Nations of this continent with thousands of years of experience, must be recognized and positioned by the Department to be leaders in determining how/when Indigenous Knowledge is used and protected from public dissemination. DOI must integrate its Indigenous Knowledge work into updating its CAP and partner with Tribal Nations to address climate change and adaptation priorities both within our Tribal homelands, and our ancestral homelands currently residing outside our jurisdictional boundaries. We have lived sustainably in our ancestral homelands for countless generations, relying on our Indigenous Knowledge as a body of information built upon observations, experiences, and lessons derived from living in a sustainable manner with the natural environment. The application of our Indigenous Knowledge has also led to practical solutions improving forested management, wildlife corridors, and dealing with sea level rise.

However, Indigenous Knowledge must be respected and protected as Tribal proprietary knowledge, as Tribal Nations and cultures carry the responsibility of its application for the well-being of our communities, homelands, and seascapes. With this in mind, DOI must recognize and acknowledge that we are the sole decisionmakers on how our Indigenous Knowledge is used, shared, and protected—not the federal government. DOI must recognize and understand that Indigenous Knowledge is shared at the discretion of Tribal Nations, and any sharing of this data, even across the federal government, must be done without our consent.

Further, our sea level rise data, and the most current sea level rise projections, should be required data to assess climate risk in the coastal areas where some of our Tribal Nations currently reside and/or have ancestral homelands and submerged sites of sacred and cultural significance. The best available satellite data should be considered for land surface changes, vegetation cover and health changes, and ocean health including sea surface temperature and bio productivity. With transparent discussions and Tribal Nation consent, Tribal environmental and natural resource data could be considered to assess climate risk. The inclusion of Tribal data should adhere to the principles of Tribal data sovereignty, and we should be the sole decisionmakers on how this data is used by DOI as well as the sole decisionmakers on whether or not this data is shared with other federal agencies or the public.

- **Recognizing that all lands, waters, and those who inhabit them are important, are there particular Interior-managed resources that hold special significance for Tribal Nations and/or Alaska Natives and should be considered for prioritization in climate adaptation planning?**

USET SPF asserts that it will be important for DOI to prioritize fish and wildlife species (and the ecosystems that sustain these species) that are culturally significant to our member Tribal Nations and cultures in our region. Many of these fish and wildlife species are part of the Traditional Food systems of Tribal Nations in our region and serve as keystone species in our particular environments. Special attention should be paid to coastal areas as these areas are impacted by sea level rise and storm surge and are culturally significant spaces for USET SPF's member Tribal Nations. These include areas of habitation of coastal Tribal communities, such as living spaces and burial locations that are impacted by sea level rise and erosion from coastal storms. In addition, the oceans hold special significance for many USET SPF member Tribal Nations as it is the source for Traditional Foods for Tribal sustenance and shellfishing and other commercial fisheries that contribute to our Tribal economies. It is crucially important for the Department to work closely with Tribal Nations to ensure ocean energy development, such as offshore wind scoping, development, and construction, does not disrupt oceanic Tribal natural and cultural resources. This collaboration will also be critical to informing the Department's work with Tribal Nations by ensuring that we are able to effectively communicate and work with DOI to identify the specific natural and cultural resources that are critically important to each Tribal Nation. In these efforts, DOI must defer to each Tribal Nation's priorities to protect and safeguard our specific natural, cultural, and environmental resources and this must become a key component and directive of the DOI's updated CAP.

- **How can the Department address exposure to climate hazards for these resources that hold special cultural or natural significance?**

In updating its CAP, DOI must seek additional, necessary funding to increase staff capacity at Tribal Historic Preservation Offices so that these offices have the resources to play a major role in working with the Department and its agencies to address exposure to climate hazards affecting our natural, cultural, and environmental resources. In its annual Fiscal Year Budget Requests and Justifications (also known as "The Green Book"), DOI must include annual funding requests to support the hiring and retention of Tribal Historic Preservation Officers (THPOs) and THPO support staff to participate in developing and coordinating the implementation of climate adaptation plans with Tribal, federal, and state and local entities. It is also important to note that not all Tribal Nations have dedicated THPO staff due to the federal government's failure to uphold its trust and treaty obligations to fully fund these positions.

In the instances that Tribal Nations have a THPO and/or cultural or natural resources department, oftentimes these individuals and departments are inundated with multiple infrastructure projects and permit applications that exceed their available capacity and resources. In addition to coordinating Tribal climate adaptation work, the primary responsibilities of these individuals and departments are the review of applications and permits infrastructure projects. These reviews can be lengthy because they are often broken into multiple, segmented reviews of a single project and span across multiple federal and state agency jurisdictions and oversight. Furthermore, these individuals and departmental staff may fulfill multiple roles within Tribal government due to historic and persistent funding shortfalls for these positions. It is not uncommon for a cultural resource manager to also fulfill the role of a natural resource manager or serve in an emergency management role. As part of revising its CAP, DOI must develop protocols to provide the necessary technical and personnel assistance required for Tribal Nations to fully participate in climate adaptation planning to protect our communities and resources of cultural, natural, and environmental significance.

- **How can the Department incorporate climate resilience and accessibility for Tribal communities into its grants and funding opportunities?**

As part of its compliance with Executive Order 14112, “Reforming Federal Funding and Support for Tribal Nations to Better Embrace our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination” (EO 14112), DOI must actively identify methods to increase program and funding flexibility and reporting requirements to ensure Tribal Nations are able to leverage and apply these resources in ways that best serve our communities. EO 14112 was issued to advance our inherent sovereignty and self-determination to advance economic growth, pursue Nation rebuilding, and directly address the economic, social, and public health priorities of our citizens, which includes addressing the harmful effects of climate change through climate resiliency and adaptation efforts. The current service model of federal funding allocation, administration, and oversight remains a paternalistic, pre-self-determination era mechanism that stifles the proper management and use of federal resources in Indian affairs. In order to usher in a new era of Tribal self-determination, federal laws and regulations must be rescinded or revised to truly advance our sovereign efforts to pursue Nation rebuilding through climate adaptation and resiliency for the improved economic, social, and public health of our communities. We remind DOI, however, that no level of economic success that could be attained by Tribal Nations will ever diminish or eliminate the United States’ moral and legal trust and treaty obligations to fully fund Tribal programs and services.

Further, DOI must move beyond the grant based funding model, especially reliance on competitive grants that pit Tribal Nations against each other to gain access to critical funds and resources for climate adaptation. DOI must alter its grant-making processes from supporting short term project-based activities into funding long-term Tribal offices and initiatives that support climate resilience. USET SPF recommends that DOI look to the Environmental Protection Agency’s (EPA) General Assistance Program (GAP) model to fund climate resilience offices for Tribal Nations. The EPA GAP is operated by its American Indian Environmental Office, which leads EPA’s efforts to protect human health and the environments of federally recognized Tribal Nations. In 2022, EPA issued its [“2022 GAP Guidance”](#) to provide information to Tribal Nations and inter-Tribal consortia on how to develop, apply for, and manage GAP financial assistance agreements. Although we provide this as an example for DOI to emulate, we strongly recommend that any funding DOI identifies for Tribal climate resilience offices must be adequate to support the full functionalities of such offices. DOI must also include the necessary budget requests and justifications for Tribal resilience offices in “The Green Book” submitted annually to Congress. Further, USET SPF recommends that DOI encourage partnerships between Tribal Nations and non-Tribal entities, but do not limit funding opportunities by mandating them as requirements to be eligible to apply for and receive these critical funds and resources. USET SPF strongly recommends that DOI ensure funding opportunities are flexible to allow spending and uphold Tribal self-determination on broad activities that support Tribal climate resilience goals and adhere to the directives of EO 14112.

In addition to building compliance with EO 14112 in updating the CAP, DOI should also support efforts that combine and streamline federal funds for climate resiliency and adaptation from various sources into a single funding plan. This activity would be similar to the “477 Program” process established under P.L. 102-477, which the Department is already well aware of since it led the signing of an interagency Memorandum of Agreement to implement the 477 Program across 12 federal agencies. Currently, Congress is working on introducing the Tribal Environmental Resiliency Resources Act (TERRA), which like the 477 Program, would effectively combine and

streamline federal funds from various sources into one single funding plan so that Tribal Nations can better prevent, prepare for, and respond to natural and environmental disasters. Enactment of TERRA would also streamline and expedite federal agency processes tied to actions covered by a funding plan, such as trust land acquisition. As the effects of climate change intensify, many of our Tribal Nations have been forced to contend with increasing occurrences of natural disasters, along with destruction of our environments and properties. As stated throughout our comments, there are precious few federal resources dedicated to long-term Tribal climate change planning, adaptation, and mitigation. Therefore, we strongly urge DOI to support efforts to support efforts like TERRA to increase our ability to exercise our sovereignty and determine the best way to utilize these federal funds for our communities.

- **What barriers prevent the implementation of climate adaptation and resilience efforts on Tribal Lands and in Tribal communities?**

Tribal Nations continue to contend with limited staff capacity and resources to implement climate adaptation and resilience efforts. Oftentimes, grant funding opportunities are saddled with high administrative and reporting requirements and restrictive allowable expenses, which Tribal Nations and agencies are either less likely to pursue, or, if awarded, can only be used toward minor advancement of Tribal climate adaptation and resilience goals. For these reasons, USET SPF reiterates its recommendation that DOI must ensure that funding opportunities for Tribal Nations to pursue Tribal climate adaptation and resilience goals must be accomplished through the lens and directives of EO 14112.

Further, DOI must recognize the benefits of partnering with Tribal Nations in climate adaptation planning as it updates the CAP since some of the first Tribal-led climate change adaptation plans developed in the U.S. came from Tribal Nations in the USET SPF region. For instance, the impacts of the 2012 northeastern summer drought and heat wave, as well as coastal flooding from Hurricane Sandy, respectively, prompted the Saint Regis Mohawk Tribe and the Shinnecock Indian Nation to complete climate change adaptation plans for their homelands, waterways, and communities in 2013. Other Tribal Nations within the USET SPF region have followed suit through exploring climate change adaptation options and opportunities to fund adaptation activities. Often, departments within Tribal Nations, such as natural resource or cultural preservation departments, take the lead, but not exclusively, as Tribal emergency management or economic development programs have also explored climate change adaptation options.

Despite exceptional efforts toward climate change adaptation, there remain significant institutional barriers to Tribal climate change adaptation planning. The same institutional barriers of limited jurisdiction and access to traditional territories or places of cultural significance remain factors and challenges in Tribal climate change adaptation planning. Though there have been significant increases in federal funding toward Tribal climate change resilience, including through the recent infrastructure bills, funding for long-term climate change adaptation remains a challenge. Tribal climate change resiliency funding remains very “project-based,” and unsustainable for long-term climate change adaptation plan implementation. Furthermore, despite federal trust and treaty obligations, Tribal Nations continue to be limited to competitive funding for climate change resiliency projects. This makes such funding inaccessible to and unreasonable for Tribal Nations with limited grant pursuit staffing capacity, regardless of significant climate change impacts and concerns (ATNI, 2020). As aforementioned, DOI must move away from this competitive grant funding model for Tribal Nations as it does not adequately support our priorities to pursue climate resiliency and adaptations, nor does it uphold the federal government’s trust and treaty obligations

to fully fund and support programs and services for Tribal Nations. This action would further uphold and comply with the directives of EO 14112, and support DOI's efforts to support and collaborate with Tribal Nations in climate resiliency and adaptation planning.

In addition, federal natural and cultural resources funding can be very sector-, species-, or place-specific, whereas Tribal Nations are concerned about the health of our communities and environments in their entirety. Many Tribal Nations are forced into the position of pursuing multiple grants and searching for funding from different sources with varying objectives required in order to address larger climate change impact on our homelands and communities. Federal funding for climate change adaptation is also at the whim of political power shifts in Congress and the White House. Opportunities available this year may not be available next, which restricts the development and implementation of a consistent or long-term climate change adaptation plan.

Further, DOI's revised CAP must include climate change adaptation priorities for Tribal Nations and support our efforts to place lands into trust to provide communities safety from sea level rise and provide Tribal Nations access to species of cultural importance whose ranges have shifted due to climate change. Tribal Nations are actively seeking to restore our homelands and our jurisdiction to these lands so that we may care for and protect natural and cultural resources. DOI must recognize that if a location becomes uninhabitable or ecosystems with cultural significance shift due to climate change, Tribal Nations may face difficulties and opposition, if adaptation means relocating to and re-acquiring lands that provide access to cultural resources and safety from sea level rise. When it comes to Tribal Nation relocation, it cannot be overstated that such a term is profoundly sensitive for Tribal Nations, as we have had multiple experiences in U.S. history with forced or coerced relocation and removal of access to our homelands. It is understood that sea level rise, riverine erosion, and other climate change impacts, and worst-case scenario projections are going to require the movement of communities and infrastructure in some locations. Tribal Nations must be afforded the dignity and the means to move to places that will continue the health and well-being of our Nations and communities. However, our rights and access to our original homelands, waters, and coasts must be maintained and protected, even if these places become submerged.

Conclusion

Successful climate resiliency and adaptation for USET SPF's member Tribal Nations will rely on the appropriate and responsible use of Indigenous Knowledge, support for resilient and robust social systems and protocols for Tribal and non-Tribal partnerships, and a commitment to principles of sovereignty and self-determination to pursue our climate resiliency and adaptation priorities. However, it will also require additional action from the federal government to address the institutional barriers USET SPF's member Tribal Nations continue to experience in adapting to the ever-increasing threat of climate change. This requires the federal government to uphold its trust and treaty obligations to Tribal Nations by ensuring accessible, flexible, and streamlined long-term funding for Tribal climate change adaptation. To achieve these goals, DOI must adhere to the directives of Executive Order 14112, "Reforming Federal Funding and Support for Tribal Nations to Better Embrace our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination." DOI must actively identify methods to increase program and funding flexibility and streamline reporting requirements to ensure Tribal Nations are empowered to leverage and apply these climate resiliency and adaptation resources in ways that best serve, protect, and safeguard our communities. The current grant and competitive grant funding models for climate resiliency and adaptation do not support Tribal Nation efforts to address these priorities, nor does it uphold the federal government's trust and treaty obligations to fully fund and support programs and services for Tribal Nations to address these persistent challenges resulting from climate change. As DOI updates its CAP, it must incorporate

respect and opportunities for Tribal Nations to develop our own long-term climate change adaptation frameworks and strategies.

Tribal Nations in the USET SPF region and across the country have demonstrated commitment and resolve in protecting and restoring our homelands with proportionally less funding, lower staffing capacity, and fewer resources at hand. However, this should not be the accepted norm in addressing the effects of climate change on our communities as it reflects the federal government's failure to uphold its trust and treaty obligations to Tribal Nations. Further, competitive project-based funding remains unsustainable and inappropriate for long-term climate change adaptation planning and Tribal Nations require support from our federal partners to build long term Tribal department staff and program capacity to develop and implement adaptation plans to address the long-term impacts of climate change. We look forward to continued dialogue with DOI as it proceeds with updating its CAP to ensure that the priorities of Tribal Nations in this area are appropriately reflected in the revised document. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org or 615-838-5906.

Sincerely,



Chief Kirk Francis
President



Kitcki A. Carroll
Executive Director