



# USET

## SOVEREIGNTY PROTECTION FUND

**Washington, DC Office**

1730 Rhode Island Ave., NW, Suite 406  
Washington, DC 20036

**Nashville, TN Office**

711 Stewarts Ferry Pike, Suite 100  
Nashville, TN 37214  
P: 615-872-7900 | F: 615-872-7417

August 5, 2025

The Honorable Lisa Murkowski  
Chair  
Senate Committee on Indian Affairs  
838 Hart Senate Office Building  
Washington, DC 20510

The Honorable Bruce Westerman  
Chair  
House Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, DC 20515

The Honorable Tom Cole  
Chair  
House Committee on Appropriations  
H-307 Capitol Building  
Washington, DC 20515

The Honorable Jeffrey Hurd  
Chair  
House Subcommittee on Indian and Insular Affairs  
1324 Longworth House Office Building  
Washington, DC 20515

Dear Chairs Murkowski, Cole, Westerman, and Hurd,

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) writes to you today regarding the construction and operation of an immigration detention facility known colloquially as “Alligator Alcatraz,” located on lands with deep traditional and cultural significance to Tribal Nations. In an effort to protect its use and occupancy rights throughout its homelands, the Miccosukee Tribe of Indians of Florida has now intervened in litigation regarding the facility. We urge you to act now to decommission the facility until the proper legal reviews take place, including Tribal consultation.

USET SPF is a non-profit, inter-Tribal organization advocating on behalf of 33 federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.<sup>1</sup> USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and to assisting its membership in dealing effectively with public policy issues. USET SPF advocates within existing institutions to fight today’s battles and simultaneously works to improve the foundations of Indian law and policy to create long-lasting impacts for Indian Country.

---

<sup>1</sup> 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 Wampanoag Tribe of Gay Head (Aquinnah) (MA).

***Because there is Strength in Unity***

The Miccosukee Tribe is one of USET SPF's founding Tribal Nation members and exercises important inherent and retained rights in and around the site of the immigration detention facility, which is surrounded on all sides by the Big Cypress National Preserve or Tribal settlement lands.<sup>2</sup>

The Miccosukee Tribe is a federally recognized Tribal Nation possessing inherent sovereignty and the rights and authorities that flow from that sovereignty, including aboriginal use and occupancy and stewardship rights throughout its homelands. The United States has recognized these rights throughout time, including via federal statute acknowledging Miccosukees' right "to continue their usual and customary use and occupancy" after the creation of the Big Cypress National Preserve.<sup>3</sup> According to the Miccosukee Tribe, its active ceremonial sites and the majority of its traditional villages are located within the Preserve. Thus, as discussed below, it has a right to engage in Tribal consultation and decision-making under the National Historic Preservation Act (NHPA),<sup>4</sup> the National Environmental Protection Act (NEPA),<sup>5</sup> and other legal authorities before those rights are affected. Yet no such engagement occurred prior to the construction of the immigration detention facility now operating in its homelands and—according to the Miccosukee Tribe—located within 1,000 feet of one Tribal village, within three miles of 10 other Tribal villages, and upstream from several Tribal communities.

Tribal Nations are and always have been inherently sovereign governments, a status that predates the arrival of outside forces. While existing independently from the United States' affirmation,<sup>6</sup> this inherent sovereignty is recognized in the U.S. Constitution,<sup>7</sup> by the U.S. Supreme Court,<sup>8</sup> and via other legal proclamations. As one consequence of a Tribal Nation's inherent sovereignty, the U.S. Supreme Court has long recognized Tribal Nations' aboriginal rights to use and occupy our homelands,<sup>9</sup> which "need not be 'based upon a treaty, statute, or other formal government action.'"<sup>10</sup> These rights persist despite the encroachment of the United States, and outsiders before it, on Tribal Nations' homelands.<sup>11</sup> Indeed, by taking Tribal Nations' lands and resources through war and treaty-making, the United States assumed ongoing debt-based trust and treaty obligations to Tribal Nations and Native people,<sup>12</sup> and protection of our aboriginal use and occupancy rights is one such obligation.

The United States has enacted and implemented many laws in furtherance of its trust and treaty obligations,<sup>13</sup> including the NHPA and NEPA. The NHPA recognizes that places of "traditional religious and cultural importance" to Tribal Nations are historic properties deserving of protection,<sup>14</sup> and it requires that Tribal

---

<sup>2</sup> See Florida Indian Land Claims Settlement Act of 1982, 25 U.S.C. §§ 1741–1749.

<sup>3</sup> Big Cypress Enabling Act, Pub. L. No. 93-440, § 5, 88 Stat. 1255, 1260 (1974); see also Miccosukee Reserved Area Act of 1998, Pub. L. No. 105-313, 112 Stat. 2964; Everglades National Park Act, 16 U.S.C. §§ 410–410r. Florida law also recognizes these continuing use and occupancy rights.

<sup>4</sup> 54 U.S.C. §§ 300101–307108.

<sup>5</sup> 42 U.S.C. §§ 4321–4347.

<sup>6</sup> See, e.g., *Worcester v. Georgia*, 31 U.S. 515, 520 (1832) (explaining retained Tribal sovereignty is based on "the settled doctrine of the law of nations"); *Haaland v. Brackeen*, 599 U.S. 255, 308 (2023) (Gorsuch, J., concurring) (similar).

<sup>7</sup> U.S. Const. art. I, § 8, cl. 3 (Indian Commerce Clause); *id.* art. II, § 2, cl. 2 (Treaty Clause); see also *id.* art. VI, cl. 2 (Supremacy Clause); *id.* art. IV, § 3, cl. 2 (Territory Clause); *id.* art. I, § 2, cl. 3 (Indians Not Taxed Clause).

<sup>8</sup> See, e.g., *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55–56 (1978); *Brackeen*, 599 U.S. at 308 (Gorsuch, J., concurring).

<sup>9</sup> See, e.g., *Worcester*, 31 U.S. at 544; *Johnson v. McIntosh*, 21 U.S. 543, 574 (1823); *Oneida Indian Nation of N.Y. v. Oneida Cnty.*, 414 U.S. 661, 667 (1974).

<sup>10</sup> *Oneida*, 414 U.S. at 669 (citation omitted); see also *United States v. Abouselman*, 976 F.3d 1146, 1155 (10th Cir. 2020).

<sup>11</sup> See, e.g., *Mitchel v. United States*, 34 U.S. 711, 746 (1835); *Sac & Fox Tribe of Indians of Okla. v. United States*, 383 F.2d 991, 998 (Ct. Cl. 1967).

<sup>12</sup> See *Morton v. Mancari*, 417 U.S. 535, 551–52 (1974); *Seminole Nation v. United States*, 316 U.S. 286, 296–97 (1942).

<sup>13</sup> See *United States v. Antelope*, 430 U.S. 641, 647 n.8 (1977); see also *Brackeen*, 599 U.S. at 275; *Mancari*, 417 U.S. at 552.

<sup>14</sup> 54 U.S.C. § 302706(a).

Nations be consulted when the federal government makes decisions that may affect such properties<sup>15</sup> or Tribal lands.<sup>16</sup> NEPA similarly secures Tribal Nations a seat at the table to protect our religious, cultural, and other rights implicated during federal decision-making.<sup>17</sup> Tribal Nations rely on the United States to comply with the NHPA and NEPA review processes and the opportunities they provide for Tribal Nations to be heard.

Yet, despite the deeply held and widely acknowledged Tribal rights in and around Big Cypress National Preserve, no NHPA or NEPA reviews took place prior to the construction and operation of the immigration detention facility, and there was no Tribal engagement in federal decision-making.

USET SPF stands proudly with its member Tribal Nation, the Miccosukee Tribe, in upholding its inherent sovereignty, as well as its continuing, reserved aboriginal and legally recognized rights to use and occupy its traditional homelands. The federal government has an obligation to protect and facilitate Tribal Nations' continued way of life, including through the safeguarding of cultural practices and sacred sites. USET SPF calls upon the United States to deliver upon this obligation and on all parties to recognize these inherent rights.

We urge you to act now to decommission the immigration detention facility until the proper legal reviews, including Tribal consultation, take place.

Sincerely,



Chief Kirk Francis  
President



Kitcki A. Carroll  
Executive Director

CC: The Honorable Markwayne Mullin  
The Honorable Ashley Moody  
The Honorable Rick Scott  
The Honorable Scott Franklin  
The Honorable Byron Donalds  
The Honorable Carlos Gimenez  
The Honorable Mario Diaz-Balart  
The Honorable Debbie Wasserman-Schultz  
The Honorable Vern Buchanan  
The Honorable Brian Mas  
The Honorable Maria Salazar

---

<sup>15</sup> *Id.* § 302706(b); 36 C.F.R. §§ 800.2(c)(2)(ii), 800.3(f)(2).

<sup>16</sup> 54 U.S.C. § 302702; 36 C.F.R. §§ 800.2(c)(2)(i)(A), 800.3(c)(1).

<sup>17</sup> See, e.g., 42 U.S.C. § 4331(b)(4) (describing federal responsibility to “preserve important historic, cultural, and natural aspects” in carrying out NEPA); *id.* § 4336e(2) (recognizing Tribal Nations as eligible to participate in NEPA review as “cooperating agency”).