



United South and Eastern Tribes, Inc.

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USET Resolution No. 2014:001

CALLING UPON BAY MILLS INDIAN COMMUNITY AND THE FEDERAL GOVERNMENT TO TAKE ACTION TO MOOT THE BAY MILLS SOVEREIGN IMMUNITY CASE BEFORE THE SUPREME COURT HEARS ORAL ARGUMENTS

- 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 (U.S.) with the rights and benefits of sovereign nations; and
- WHEREAS,** this relationship has its underpinnings in the U.S. Constitution, specifically, the Indian Commerce Clause, the Treaty Clause and the Supremacy Clause, and in numerous treaties, laws, and other agreements and understandings between the U.S. and Indian Tribes; and
- WHEREAS,** the Bay Mills Indian Community has sought to establish a gaming operation on lands approximately 100 miles from its current reservation, based on its interpretation that under the Michigan Indian Land Claims Act of 1997, any lands the Tribe acquires using settlement funds is deemed "Indian land" and therefore eligible for gaming; and
- WHEREAS,** the U.S. Department of Justice and the National Indian Gaming Commission have both issued opinions stating that the land is not "Indian land" within the meaning of the Indian Gaming Regulatory Act and therefore is not eligible for Indian gaming; and
- WHEREAS,** the National Indian Gaming Commission states it does not have jurisdiction over off-reservation lands and therefore cannot act, and the U.S. Department of Justice and the U.S. Department of the Interior have not taken action, and therefore, the State of Michigan has sought to assert jurisdiction over these lands; and
- WHEREAS,** in response to Michigan's effort, the Bay Mills Indian Community has invoked its sovereign immunity, preventing the courts from reviewing the case on the merits, and the Bay Mills Indian Community has prevailed on this point in the lower courts, but now the U.S. Supreme Court has accepted review of the case and on December 2, 2013 will hear oral arguments; and
- WHEREAS,** it is widely believed by Tribal leaders and Federal Indian law experts; the Supreme Court has accepted this case with the intent of opining on the scope of Tribal sovereignty and Tribal sovereign immunity and that given the Supreme Court's record in recent years of nearly always ruling against Tribal interests, there is a high likelihood of an adverse ruling; and

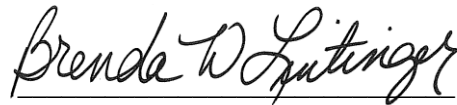
- WHEREAS,** there remains a possibility of mooted this case such that the Supreme Court can be asked to dismiss it prior to; and
- WHEREAS,** in December 2010, the U.S. recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it
- RESOLVED** the State of Michigan should honor the terms of the compact it negotiated with the Bay Mills Indian Community, which provides a dispute resolution process, rather than evade that process by inappropriately pursuing Federal court review; and, be it further
- RESOLVED** the USET Board of Directors urges the relevant Federal agencies to review their options to moot this case in the Supreme Court.

CERTIFICATION

This resolution was duly passed at the USET Annual Meeting, at which a quorum was present, in Cherokee, NC, on Thursday, October 31, 2013.



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



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

“Because there is strength in Unity”