



United South and Eastern Tribes, Inc.

Nashville, TN Office:

711 Stewarts Ferry Pike, Suite 100
Nashville, TN 37214
Phone: (615) 872-7900
Fax: (615) 872-7417

Washington, DC Office:

400 North Capitol Street, Suite 585
Washington, D.C., 20001
Phone: (202) 624-3550
Fax: (202) 393-5218

USET Resolution No. 2014:035

URGING IMMEDIATE CONGRESSIONAL ACTION TO PASS A CARCIERI “FIX”

- 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,** on February 24, 2009, the Supreme Court in *Carcieri v. Salazar* (“*Carcieri*”) severely limited the Secretary of the Interior’s ability to take land into trust for Tribes pursuant to the Indian Reorganization Act (IRA) providing that such authority only extended to those Tribes “under federal jurisdiction” in 1934;
- WHEREAS,** on June 18, 2012, the United States Supreme Court held in *E-Be-Nash-She-Wish Band of Pottawatomis Indians v. Patchak* (“*Patchak*”) that the Quiet Title Act did not, as had long been the law, prevent a challenge to the legal status of land taken into trust for an Indian Tribe even several years *after* the land had been taken into trust; and
- WHEREAS,** on January 21, 2014, the Ninth Circuit in *Big Lagoon Rancheria v. California* held that the Big Lagoon Rancheria was not “under federal jurisdiction” in 1934 and further found that as a result, Tribal lands that were taken into trust in 1994, nearly 20 years ago, were not “Indian lands” within the meaning of the Indian Gaming Regulatory Act, dramatically extending the statute of limitations for challenging a decision of the Secretary of the Interior to take land into trust; and
- WHEREAS,** the *Carcieri* decision, greatly magnified by these subsequent decisions, has created enormous uncertainty with regard to the status of lands that have been taken into trust with the effect of impeding economic development, threatening public safety due to jurisdictional ambiguities, and through the erosion of Tribal sovereignty and the trust responsibility ultimately affecting cultural identity and survival; and
- WHEREAS,** the *Carcieri* decision has spawned at least 16 other cases and the *Big Lagoon* decision will likely encourage even more suits at great cost to the United States and to Tribes; and
- WHEREAS,** our land and identity are integrally connected and represent a fundamental human right to our peoples and therefore the failure to pass a *Carcieri* fix is a violation of our fundamental human rights; and
- WHEREAS,** USET has actively worked for a *Carcieri* Fix in the U.S. Congress but these efforts have not yet been successful due to opposition from interests that wish to leverage this basic issue of justice to advance unrelated agendas; and

- WHEREAS,** the failure to pass a *Carcieri* Fix is a major failing of the trust responsibility by the leadership of the United States government; and
- WHEREAS,** in December 2010, the United States 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 USET Board of Directors urges the President of the United States to personally and directly urge Congressional leadership to advance the President’s *Carcieri* Fix included in his budget request; and, be it further
- RESOLVED** the USET Board of Directors urges Congressional leadership, including the incoming chairman of the Senate Committee on Indian Affairs Senator Jon Tester, the vice chairman of the Senate Committee on Indian Affairs Senator John Barrasso, the chairman of the House Natural Resources Committee Congressman Doc Hastings, the ranking member of the House Natural Resources Committee Congressman Peter DeFazio, the chairman of the House Indian and Alaska Native Affairs Subcommittee Congressman Don Young, and the ranking member of the House Indian and Alaska Native Affairs Subcommittee Congresswoman Colleen Hanabusa to advance the *Carcieri* Fix without further equivocation or delay; and, be it further
- RESOLVED** the USET Board of Directors asks the United States Department of Justice to engage in consultation with Tribes concerning the adverse impact of the *Carcieri*, *Patchak*, and *Big Lagoon* decisions, as part of advancing the Administration’s commitment to passing a *Carcieri* “Fix”; and, be it further
- RESOLVED** the USET Board of Directors asks that the White House Office of Intergovernmental Affairs facilitate inter-governmental discussion between the Tribes, the States, the Counties, and the Federal Government with regard to resolving conflicts among these parties upon the request of Tribal nation; and, be it finally
- RESOLVED** the USET Board of Directors calls upon other allied Indian organizations to redouble their efforts to secure passage of a *Carcieri* “Fix”.

CERTIFICATION

This resolution was duly passed at the USET Impact Week Meeting, at which a quorum was present, in Arlington, VA, on Thursday, February 6, 2014.



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



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

“Because there is strength in Unity”