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For Immediate Release

Federal District Court Strikes Blow Against Native Families and Communities Declares Indian Child Welfare Act Unconstitutional

(Nashville, TN)— In a stunning reversal of hundreds of years of Federal legal precedent, the Federal district court for the Northern District of Texas, in the case of *Brackeen v. Zinke*, (Civil Action No. 4:17-cv-00868-O), has ruled that the Indian Child Welfare Act is unconstitutional on several grounds, including that it violates equal protection requirements. Until passage of the Indian Child Welfare Act, it was standard practice to put Native children up for adoption with non-Indian families, literally stealing from Native communities their future. To Tribal communities, the removal of their children amounted to a cultural genocide whether they were formally enrolled in a Tribal Nation or not.

“Because of this decision, many of our children who should be raised in their Native culture are going to be raised in non-Indian homes,” stated Kirk Francis, President of the United South and Eastern Tribes Sovereignty Protection Fund. “This is deeply distressing and a total violation of all the promises the Federal government has made to protect our communities.”

Because the Congress has long been deemed by the courts to have “plenary” authority in Indian Affairs, no Federal Indian law has ever been struck down as violating the U.S. Constitution on equal protection concerns. **“This decision is wildly outside the main stream of Federal Indian law,” added President Francis. “It will not only harm Native children and Native families, but it literally could call into question many other Federal actions taken to help Tribal Nations and Native peoples. It feels like a final betrayal.”**

The district court’s decision rejects well-settled case law that recognizes that the status of Tribal Nations and Tribal peoples is a political status and not a race-based status. As a political status, there is no question that the Indian Child Welfare Act, which has been the law of the land since 1978, is constitutional. The district court’s erroneous conclusion that the law is race-based ignores the history of the United States and its many promises to the Tribal Nations that were here first.

“There is literally nothing we value more than our children. This inhumane decision cannot stand,” concluded President Francis.

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) was established to provide a strong voice for Tribal Nations in the south and eastern regions of the United States. USET SPF is an intertribal organization comprised of twenty-seven federally recognized Tribal Nations, ranging from Maine to Florida to Texas¹. USET SPF is dedicated to enhancing the development of federally recognized Tribal Nations, to improving the capabilities of Tribal governments, and to assisting USET SPF Member Tribal Nations in dealing effectively with public policy issues and in serving the broad needs of Indian people.

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United South and Eastern Tribes (USET)

Established in 1969, the United South and Eastern Tribes, Inc. (USET) is a non-profit, inter-Tribal organization representing twenty-seven (27) federally recognized Tribal Nations, from Maine to Florida to Texas. USET is dedicated to enhancing the development of Tribal Nations, and improving the capabilities of Tribal governments, improving the quality of life for Indian people through a variety of technical and supportive programmatic services.

USET Sovereignty Protection Fund (USET SPF)

Established in 2014, the USET Sovereignty Protection Fund (USET SPF) is a non-profit, inter-Tribal organization representing twenty-seven (27) federally recognized Tribal Nations, from Maine to Florida to Texas. 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 member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), 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), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), 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), 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), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).