



# USET

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**Testimony of the United South and Eastern Tribes Sovereignty Protection Fund  
For the Record of the House Natural Resources Subcommittee on Oversight and Investigations  
Oversight Hearing entitled, “No Road Map, No Destination, No Justification: The Implementation  
and Impacts of the Reorganization of the Department of the Interior”**

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is pleased to provide the House Natural Resources Subcommittee on Oversight and Investigations with the following testimony for the record of its oversight hearing entitled, “No Road Map, No Destination, No Justification: The Implementation and Impacts of the Reorganization of the Department of the Interior.” USET SPF supports the House Natural Resources Committee in its exercise of oversight authority in the case of the Department of the Interior’s (DOI) proposed reorganization. Nearly a year and a half after its announcement, Indian Country continues to have more questions than answers from DOI on this massive undertaking. The near-complete lack of information provided to Tribal Nations is unacceptable, regardless of whether the Bureau of Indian Affairs (BIA) is included in the reorganization. We continue to urge DOI to provide clarity regarding reorganization logistics, purpose, and effects on Indian Country, and to consult with Tribal Nations on these details.

USET SPF is a non-profit, inter-tribal organization representing 27 federally recognized Tribal Nations from Texas across to Florida and up to Maine.<sup>1</sup> USET SPF is dedicated to enhancing the development of federally recognized Tribal Nations, to improving the capabilities of Tribal governments, and assisting USET SPF Member Tribal Nations in dealing effectively with public policy issues and in serving the broad needs of Indian people. This includes advocating for the full exercise of inherent Tribal sovereignty.

### **Failure to Meaningfully Consult**

USET SPF is deeply opposed to the manner in which DOI has conducted itself as it pursues reorganization activities, and in the absence of nearly any specifics, to the reorganization itself. Indeed, DOI’s reorganization proposal has been developed with little clarity or transparency and without meaningful Tribal consultation. Despite publicized meetings with DOI officials and state and local governments on the development of the proposal, Tribal Nations were not engaged in this manner, notwithstanding trust and treaty obligations, and Tribal consultation was not initiated until May 17, 2018. Prior to and following the issuance of the DOI’s “Dear Tribal Leader” letter seeking input from Tribal Nations, USET SPF, along with Tribal Nations and organizations across the country, repeatedly sought answers (both formally and informally) to the myriad questions surrounding the proposal. To date, DOI has not responded. Rather, DOI officials decided that BIA would not participate. At a November 2018 meeting of the Tribal Interior Budget Council, Assistant Secretary for Indian Affairs, Tara Sweeney, indicated that a “Dear Tribal Leader” letter

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<sup>1</sup> USET SPF 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).

(DTLL) regarding the reorganization and its impacts was forthcoming. Indian Country continues to await this clarifying letter.

### **Execution of Trust Obligations and Inherent Federal Functions Must be Protected**

As DOI moves forward with its reorganization, the execution of the federal government's trust responsibility and obligations must be paramount. These positions and agencies, and all inherent federal functions must be preserved. This includes ensuring that all DOI operating divisions and agencies are focused on upholding these duties. It is of deep concern that the current reorganization plan appears to be developed with the Department's natural resources-related functions, and not its trust obligations, in mind. According to briefings we have received on the reorganization, the new, unified regions will each be overseen by a regional director whose charge will be the following priorities: conservation, recreation, and permitting. The trust responsibility and obligations are glaringly absent from this list.

In light of this, it remains unclear to USET SPF and others across Indian Country how DOI will prioritize the execution of the trust responsibility under the proposed model. Considering the list of priorities for the new regional directors, how will the reorganization affect the execution of the trust responsibility and obligations? How will each operating division and regional director prioritize the government-to-government relationship? To date, DOI has not provided satisfactory answers to these very basic questions.

### **Impacts Remain Unclear**

In addition to a lack of clarity surrounding DOI's sacred duty to Tribal Nations, the practical effects upon the BIA and other bureaus and functions also remain unclear. While representatives from DOI continue to state BIA will not participate in the reorganization, Indian Country has not been given any indication as to how BIA will or will not be affected, nor whether participation would have any benefit to Tribal Nations. How will BIA operate under the unified regional model? How will service delivery change? These unknowns do not allow for a position on BIA participation.

Further, DOI has yet to provide Indian Country or Congress with a cost-benefit analysis concerning the reorganization. Yet, DOI continues to request tens of millions of dollars for the reorganization, including nearly \$28 million for Fiscal Year 2020. As the reorganization moves forward, this number is likely to increase exponentially. It is not possible for Indian Country or Congress to understand the full ramifications of the reorganization without a full cost estimate, anticipated savings, and better articulated goals.

### **Need for Broader Consultation**

While DOI's attempt at consultation seems to have exclusively focused on whether BIA will participate in the reorganization, each agency and operating division within DOI shares in the trust responsibility and obligation to Tribal Nations. Indeed, Tribal Nations regularly interact with many of DOI's other divisions, including the Bureau of Land Management, U.S. Fish and Wildlife, and the National Park Service. With this in mind, Tribal Nations must be consulted on the DOI reorganization as a whole, not merely BIA's participation.

### **Changes and Restructuring in the Absence of Consultation**

We are aware that a number of personnel and programmatic changes have been made without Tribal consultation and, in some cases, over the objections of Tribal Nations. While we understand that the Department is afforded the latitude to make employment decisions, Tribal Nations should be consulted as senior staff are reassigned—particularly at the regional level.

Similarly, we note the inclusion of the reorganization as "Strategy #1" in DOI's FY 2018—2022 Strategic Plan, which appears to have been posted to DOI's website on March 5, 2018. This Strategic Plan has also not received sufficient Tribal consultation. While a listening session was scheduled in the Eastern Region for August 2017, it was later canceled and never rescheduled. Nonetheless, the Plan states,

“The DOI intends to establish unified regional boundaries for its bureaus in 2018 and to further develop this approach in 2019. The goal is to improve overall operations, internal communications, customer service, and stakeholder engagement. Aligning geographic areas across the DOI will enhance coordination of resource decisions and policies and will simplify how citizens engage with the DOI.”

The contents of the Strategic Plan appear to be in conflict with DOI’s commitment to ensure Indian Country chooses whether to participate in the reorganization, as well as page 11 of the document, which includes, “effectively consulting with Tribal governments.”

### **Importance of the Eastern Region Office**

Historically, as part of past reorganization/restructuring efforts, USET SPF member Tribal Nations have consistently had to fight to protect the BIA Eastern Region Office. We are adamantly opposed to any effort to eliminate this office. Previous efforts to fulfill Eastern Region trust obligations through other BIA regional offices have failed and proven that Eastern Region Tribal Nation interests are secondary to the interests of the Tribal Nations within those regions tasked with providing contracted services. While our most recent discussions with DOI indicate that the Eastern Region Office would be preserved, its ongoing relationship with both DOI headquarters and the new, unified regional offices has not been articulated.

### **Any Changes must Promote Improved Execution of Trust Obligations**

USET SPF member Tribal Nations acknowledge that there may unnecessary levels of bureaucracy and redundancies at DOI and this belief is consistent with our organizational effort to modernize the trust relationship. However, any eliminations or changes must be accomplished with the intent to (1) achieve more timely and seamless execution of federal trust obligations, and (2) promote greater Tribal Nation self-determination.

The current trust model is broken and based on faulty and antiquated assumptions from the 19th Century that Indian people were incompetent to handle their own affairs and that Tribal Nations were anachronistic and would gradually disappear. It is time for a new model that reflects a truly diplomatic, nation-to-nation relationship between the U.S. and Tribal Nations, and that empowers each Tribal Nation to define its own path. This mission should inform each action taken by this Administration affecting Tribal Nations, including any reorganization of DOI.

In addition, any cost-savings must be directed to improved execution of trust obligations. Any potential cost savings derived from the reorganization should be redirected to augment the severely underfunded Tribal programs and trustee services provided by Indian Affairs, as well as other as other Tribal programs and services provided by agencies within DOI.

### **Conclusion**

DOI must work to provide clarity to Indian Country prior to moving forward with further reorganization efforts. This includes much more than a take-it-or-leave-it approach to the reorganization as it pertains to Indian Country. USET SPF remains hopeful that the Department will take the opportunity to modernize the federal government and execution of the federal trust responsibility in a way that upholds the obligations of our sacred government-to-government relationship and promotes the full exercise of Tribal sovereignty. In the meantime, USET SPF urges Congress to continue to hold DOI accountable and withhold additional funds for the reorganization until DOI provides additional information and conducts meaningful consultation with Tribal Nations. 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](mailto:LMalerba@usetinc.org) or 202-624-3550.