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Tunica-Biloxi Tribe of Louisiana and
Chair, USET Carcieri Task Force**

**On behalf of the
United South and Eastern Tribes, Inc.**

**Testimony before the
United States Senate Committee on Indian Affairs**

Wednesday, November 20, 2013

Chairwoman Cantwell, Vice Chairman Barrasso, and members of the committee, my name is Marshall Pierite. I am the Chairman of the Tunica-Biloxi Tribe of Louisiana and serve as Chair of the USET *Carcieri* Task Force. Thank you for this opportunity to testify before you today.

The United South and Eastern Tribes, Inc. (USET), is an inter-tribal organization representing 26 federally recognized Tribes from Texas across to Florida and up to Maine. The USET Tribes are within the Eastern Region and Southern Plains Region of the Bureau of Indian Affairs (BIA) and the Nashville Area Office of Indian Health Services (IHS), covering a large expanse of land and area compared to the Tribes in other Regions. USET Tribes can be found from the Canadian Border in Maine and New York, along the east coast to Florida, west into Mississippi and south into Texas.

Due to this large geographic area, the Tribal Nations in our region have incredible diversity. From an economic standpoint, some of our member tribes have highly developed economies, while others remain mired in poverty. All of our tribes, however, look to the United States to live up to its trust responsibility and to promote and protect our inherent Tribal sovereignty. I am here before you today, to state unequivocally, that

the Carcieri decision is a direct infringement to the sovereignty rights for all Tribal Nations across the United States. This decision has resulted in the inability of our trustee to fulfill its trust obligations, has created two classes of sovereignty, and has presented a major barrier and challenge in our ability to pursue economic growth and prosperity.

Over the years, many witnesses have come before this committee to assert the rights of tribes and to detail the legal obligations of the federal government to protect and promote effective tribal governments. Unfortunately, the history of the United States in meeting these obligations is full of broken treaties and statutes. Despite the myriad major contributions and personal sacrifices that tribes and Native Americans have made to the nation, the United States has a miserable record of keeping even the most basic of its promises to tribal governments.

This history of neglect and disdain has led to hard feelings for both Native Americans and non-natives alike. In some cases a level of mistrust has developed that is deeply ingrained on both sides. Today however, instead of focusing on this troubling past, I would like to highlight the success of my tribe as an example of what happens when tribal governments utilize their unique legal position to benefit not only the welfare of tribal citizens, but also the welfare of their non-Indian neighbors. The lesson of the last several decades that hundreds of tribes and local communities are learning is that strong tribal governments and the economic activity that they develop is good for both tribal communities and their non-Indian neighbors. Provided the right legal landscape, tribal governments are strong engines of economic and civic growth, and are good partners to non-Indian local communities.

Unfortunately, the U.S. Supreme Court's 2009 decision in *Carcieri v. Salazar* has cast doubt on the sovereign control of Indian lands and slowed the federal government's ability to place land into trust for the benefit of tribal governments. This complication not only harms the ability of tribes to provide for the welfare of their citizens—it also hampers the ability of tribes to bring the benefits of their economic development activities to their non-Indian neighbors. Until Congress corrects the Indian Reorganization Act in such a way as to correct the problems created by the *Carcieri* decision, the successes and benefits brought on by strong tribal governments will be significantly diminished.

While I do not want to dwell on the sad history of injustice against tribes and Native Americans, it is important to note some important parts of this history as it relates to land ownership, in order to illuminate the justice and healing that tribal land reacquisition can engender. Every tribe has its own history of loss, and every federally-recognized tribe once held title to large amounts of land that has been stolen from them. There are numerous stories across the country about the theft of Indian land and resources, and even of the killing of our people. Ours is merely one example.

Prior to the acquisition of our land by the United States through the Louisiana Purchase Treaty in 1803, the Tunica-Biloxi Tribe had been granted a "league squared" around each one of its villages by the King of Spain. Accordingly, the tribe held title to well over 50 square miles of land at that time. Like all other Spanish land grants, this land ownership was recognized by the United States in the Louisiana Purchase Treaty, and per the Trade and Intercourse Acts, these Indian lands could not be legally removed from tribal ownership without approval of the federal government. However, despite no approval for land transfer by the U.S. Congress in the intervening years, by 1980 the tribe controlled less than 200 acres of land.

These lands were stolen in hundreds of small ways, but one example stands out. In 1841, Chief Melacon confronted a local land owner whose work crew was moving his fence posts onto Tunica land. As the Chief began removing the fence posts the land owner shot Chief Melacon in the head in view of several other tribal citizens and non-Indians. The killer never stood trial, as the common view at the time among non-Indians in the area was that the Indians were savages who did not farm their land “properly” and therefore had no right to keep it.

Against this history of injustice, the Tunica-Biloxi Tribe, and hundreds of other tribes across the country, are utilizing their own resources to purchase land that has been stolen from them. But, we do not wish to continue the cycle of mistrust, envy and hard feelings. Instead, we have forged new positive relationships with the local non-Indian communities that have grown up around us. Utilizing our status as a sovereign nation, the Tunica-Biloxi Tribe has created several economic development enterprises. These businesses generate revenue for the tribal government to protect and enhance the welfare and culture of the tribal citizens. However, they also provide major benefits for our non-Indian neighbors and revenues for state and local governments in the region. For example, our tribal enterprises purchase over \$10 million per year from local non-Indian vendors, and supply wages in excess of \$26 million dollars per year to mostly non-Indian employees, resulting in state and federal employment taxes of over \$2 million per year. In addition, we have donated millions of dollars to local charities, and have paid the local Parish government over \$25 million to help cover the costs associated with the additional demands placed on the community from the increased economic activity.

The Tunica-Biloxi Tribe is located near the small town of Marksville in Central Louisiana. Despite a population of less than 6,000, Marksville serves as the seat of the Avoyelles parish government. When the Tribe began looking at gaming as a means for economic advancement in the early 1990's unemployment rates in Avoyelles Parish were as high as 15-17 percent (compared to the national rate at the time of about 8 percent). Youth were leaving the area as fast as they could, and those unable to leave had no employment options. Local governments struggled to provide even the most basic services, and it looked as if there was nothing on the horizon that might change the dismal forecast for the area.

While the population of Marksville has not changed much in 20 years, the Tunica-Biloxi Tribe, through its several economic development enterprises, employs nearly 1,500 people—the vast majority of them non-Indian. After our gaming facility opened in 1995, the direct and indirect jobs created by the Tribe caused the unemployment rate in Avoyelles Parish to drop to about 6 percent. Home prices increased, new roads were paved, schools improved, Parish government services expanded, and hundreds of new businesses sprung up in Marksville and across the parish. Of course, our tribal citizens who had previously suffered greatly from economic hardship were helped as well, but the full story is one of renewal for the entire region and all of our citizens and neighbors.

Today, the Tunica-Biloxi Tribe, and hundreds of other tribal governments across the country are working hard to diversify our economies and find new enterprises that can provide the revenues we need to support our communities and protect and enhance our unique cultures. Tribes, including ours, are hoping to create new manufacturing facilities, enter the software and services industries, and build new clean energy

projects. Because of the loss of our land base, in order to create these new economic development projects we must first repurchase the land that was stolen from us.

Further, in order to take advantage of the benefits of our sovereignty, we must have that land added back into the trust status from which it was originally removed. Often, purchasing the tribe's original land is not an option. In some cases this is because the tribe was removed and sent a long way from their traditional homelands. In other cases the current owners are simply not willing to sell, or the land is no longer suitable for the intended purpose due to other development, environmental degradation, or any number of other reasons. Regardless of the location of the repurchased land, the inability of tribes to swiftly have these lands placed into trust by the U.S. Department of the Interior has dramatically decreased the ability of tribal governments to create new economic opportunities and jobs for our own tribal citizens and our neighbors. We realize that we cannot fully recreate what was lost. We can strive, however, to create a better world and better lives for our children.

In light of the complicated and often brutal history of relationships between tribes and their neighbors, the level of acrimony we often hear from non-Indians who are opposed to tribal economic development projects is not entirely surprising. What I hope all of us will come to recognize, however, is that tribes and their neighbors are in this together. We must realize that we rely on each other, and all parties want the larger community and the nation to prosper. I am hopeful that the lessons we are learning in Central Louisiana and in hundreds of other communities across the country will yield a new spirit of cooperation, and that non-Indians who are fearful of tribal economic development will come to realize that what is good for our tribal communities is good for them as well.

The Supreme Court decision in *Carcieri v. Salazar* was a major step backward in this process of justice and healing. The ruling confused both tribal governments and non-Indians alike, slowed economic growth and job creation, and continues to spawn legal impediments to the repatriation of Indian homelands. For the good of tribes, for the good of Indian children and generations yet to come, and for the good of our non-Indian neighbors and the nation as a whole, Congress should act to amend the Indian Reorganization Act to conform to its original intended purpose.