

HISTORICAL TO MODERN DAY OVERVIEW

MAJOR EVENTS AND ACTIONS SHAPING UNITED STATES' RELATIONSHIP WITH TRIBAL NATIONS AND RELATED TRUST AND TREATY OBLIGATIONS

Formative Era: First Contact-1871

Initial sustained contact between indigenous populations of North America and European subjugators. Tribal Nations used treaties to conduct business internationally with the Crowns (and later with the colonies, followed with the United States).

1493 – The Pope issued a Papal Bull stating any land not inhabited by Christians was available to be “discovered.” Under this doctrine of discovery, while indigenous people maintained the right to occupy their land, the discoverer was granted sole authority to acquire the land.

1778 – The United States entered into the first of many treaties with Tribal Nations, thereby recognizing Tribal Nations as politically sovereign entities with treaty-making authority. A basic principle established by the treaties and the United States’ course of dealings with Tribal Nations was that the United States had a broad responsibility to Tribal Nations and Native people. This responsibility flowed both from the consideration promised in exchange for Tribal Nations’ homelands and agreement of peace—often extracted through unfair tactics and sometimes without consent—and from the fact that stripping away Tribal Nations’ homelands often stripped away the very means necessary for Tribal Nations to provide for their people.

1787 – The Second Continental Congress adopted the Northwest Ordinance to charter a government for the Northwest Territory and provide that good faith shall be observed toward Indians, that their lands and property shall not be taken from them without their consent, that their property and rights shall not be disturbed absent lawful wars authorized by Congress, and that laws shall be passed to prevent wrongdoing.

1787 – The United States adopted its Constitution, which gave Congress authority to regulate commerce with Tribal Nations and gave the Executive Branch treaty making authority with ratification by the Senate.

1790 – Congress enacted the first Nonintercourse Act, requiring authorization by the federal government before Indian lands were purchased.

1823 – The Supreme Court in *Johnson v. M'Intosh*, the first case in the Marshall Trilogy, found that, under the doctrine of discovery, the federal government had the exclusive right to extinguish Tribal Nations’ aboriginal title to land.

1824 – The Bureau of Indian Affairs was created within the War Department.

1830 – Congress enacted the Indian Removal Act, authorizing the President to force southern Tribal Nations’ removal west of the Mississippi. Many Tribal Nations were forcibly removed from their lands during this time.

1831 – The Supreme Court in *Cherokee Nation v. Georgia*, the second case in the Marshall Trilogy, held Tribal Nations are domestic dependent nations and that the relationship between Tribal Nations and the federal government is like that of a ward to a guardian.

1832 – The Supreme Court in *Worcester v. Georgia*, the third case in the Marshall Trilogy, recognized that Tribal Nations are sovereign nations with authority of self-government over their people and territories that predates the arrival of colonists, that Tribal Nations have the protection of the federal government, and that the doctrine of discovery gave the federal government the sole right to acquire their land.

1849 – The Bureau of Indian Affairs was transferred to the Department of the Interior.

1871 – Treaty making ended, and the United States instead began to carry out its relationship with Tribal Nations through legislation. This action was unilateral, and was carried out by a rider attached to the Indian Appropriations Bill of 1871.

Allotment and Assimilation Era: 1871-1928

1879 – Carlisle Indian School, a well-known off-reservation Indian boarding school, was established under the philosophy of “Kill the Indian, save the man.” During this time, the United States established and operated many Indian boarding schools, removing Indian children from their homes, families, and cultures.

1885 – Congress passed the Major Crimes Act, granting federal courts jurisdiction exclusive to states for certain enumerated major crimes committed by Native people on Indian Country land.

1886 – The Supreme Court in *United States v. Kagama* held Congress has power to legislate with regard to Indians based on the obligations it owes to them.

1887 – Congress enacted the General Allotment Act (Dawes Act), which broke lands owned by Tribal Nations into parcels that were then provided to individual Indians to facilitate assimilation. Tribal Nations lost more than 90 million acres without compensation as a result of the allotment process.

1903 – The Supreme Court in *Lone Wolf v. Hitchcock* held Congress is authorized to unilaterally abrogate terms of a treaty.

1921 – Congress enacted the Snyder Act, which created a more effective funding authorization mechanism for the United States to satisfy its obligations to Indians, including for healthcare.

1924 – Congress enacted the Indian Citizenship Act, which extended United States citizenship to all American Indians; however, it wasn't until the 1965 Voting Rights Act that states were required to allow American Indians to exercise their voting rights.

Indian Reorganization Era: 1928-1945

1928 – The Merriam Report was released, which recommended major changes in federal Indian policy.

1933 – John Collier, who believed in reinvigoration of Tribal Nations' governments to control their own destinies, was appointed Commissioner of Indian Affairs.

1934 – Congress enacted the Indian Reorganization Act, which ended allotment, permitted the federal government to acquire lands into trust on behalf of Tribal Nations, and provided Tribal Nations a federally-sanctioned vehicle to adopt governing documents.

1934 – Congress enacted the Johnson-O'Malley Act, which provided federal funding for certain services administered to Indians by other entities, such as states, and has been used mostly in the context of education.

Termination Era: 1945-1968

1953 – Congress stated in House Concurrent Resolution 108 that the official policy of the federal government toward Tribal Nations was termination of federal benefits and recognition. Under this policy, many Tribal Nations' federal recognition was terminated—but most of these Tribal Nations have since been re-recognized.

1953 – Congress enacted Public Law 280 to cede some federal jurisdiction over Tribal Nations' lands to certain states.

1955 – The Facilities Transfer Act transferred Indian health programs from the BIA to the Public Health Service, establishing the Indian Health Service.

1956 – Congress enacted the California Rancheria Act, which provided for termination of California rancheria lands' trust status and distribution of assets.

1956 – Congress enacted the Indian Relocation Act to encourage Indians to relocate to urban areas.

1965 – Congress enacted Voting Rights Act of 1965. States were required to allow American Indians to exercise the right to vote in state elections.

Self-Determination Era: 1968-Present

1968 – President Johnson issued a message to Congress, entitled "The Forgotten American: The President's Message to the Congress on Goals and Programs for the American Indian." His message proposed ending termination and promoting self-determination, and he said "[t]he special relationship between Indians and the Federal government is the result of solemn obligations which have been entered into by the United States Government."

1968 – In conjunction with his message to Congress, President Johnson issued Executive Order No. 11399, entitled "Establishing the National Council on Indian Opportunity." The Council included representation from Indian country and the federal government, and it helped to establish the current era of federal Indian policy by formulating President Nixon's Special Message on Indian Affairs.

1968 – Congress enacted the Indian Civil Rights Act, which recognized and placed certain constitutional limits on powers of self-government exercised by Tribal Nations and required Tribal Nations' consent for state assumption of jurisdiction over civil or criminal actions in Indian country.

1968 – The American Indian Movement (AIM) was established to advocate on behalf of Indian Country. A grassroots organization, AIM organized demonstrations and other acts of protest to raise national awareness around issues related to Tribal sovereignty, self-governance, treaties, and water rights.

1968 – Congress enacted the Indian Civil Rights Act, imposing sentencing limitations on Tribal courts.

1970 – President Nixon issued a message to Congress, entitled "Special Message on Indian Affairs," in which he advocated self-determination, greater protection of Indian rights, the end of termination, and upholding the trust responsibility regardless of each Tribal Nations' progress toward self-sufficiency.

1974 – The Supreme Court in *Morton v. Mancari* held that a hiring preference for Indians did not "constitute 'racial discrimination'" but said instead the Constitution "singles Indians out as a proper subject for separate legislation" due to "the unique legal status of Indian tribes under federal law and upon the plenary power of Congress [drawn from the Constitution], based on a history of treaties and the assumption of a guardian-ward status." This seminal holding is one of the cornerstones of federal Indian law and has since been applied in many cases upholding actions carrying out the unique obligations the United States owes to Indians.

1975 – Congress enacted legislation establishing the American Indian Policy Review Commission for the comprehensive investigation and study of Indian affairs.

1975 – Congress enacted the Self-Determination and Educational Assistance Act, which authorized Tribal Nations to contract with the federal government for funding to provide services otherwise provided by the federal government.

1976 – Congress enacts the Indian Health Care Improvement Act, authorizing specific Indian Health Service programs and permitting IHS to bill Medicare and Medicaid.

1977 – The American Indian Policy Review Commission issued its final report, which recommended that Congress reaffirm and direct all executive agencies to administer the trust responsibility consistent with a set of specific legal principles, called for consultation with Tribal Nations and empowering Tribal Nations' governments, and made other specific recommendations.

1978 – The Supreme Court in *United States v. Wheeler* held Tribal Nations' criminal jurisdiction over Indians arises from their inherent sovereign authorities and is not granted by the United States.

1978 – The Supreme Court issued a decision in *Oliphant v. Suquamish Indian Tribe*, stating Tribal Nations have no criminal jurisdiction over non-Indians in Indian country without congressional authorization based on its reasoning that an exercise of such powers would be "inconsistent with their status" as "domestic dependent nations."

1978 – Department of the Interior Solicitor Krulitz issued a letter to the Department of Justice stating the federal government stands in a fiduciary relationship with Tribal Nations, thereby permitting money damages for trust asset mismanagement, and that the Department of Justice should not take a conflicting position.

1978 – Congress enacted the Indian Child Welfare Act to stop the practice of removing Native children from their families and Tribal Nations.

1978 – Congress enacted the American Indian Religious Freedom Act, to eliminate interference with the free exercise of Native American religions, based on the First Amendment of the United States Constitution; and to recognize the civil liberties of Native Americans, Alaska Natives, and Native Hawaiians to practice, protect and preserve their inherent right of freedom to believe, express, and exercise their traditional religious rights, spiritual and cultural practices.

1979 – Department of Justice Attorney General Bell issued a letter to Secretary of the Interior Andrus setting forth the Department of Justice's position interpreting the federal government's fiduciary responsibility to Tribal Nations regarding asset management more narrowly than what Tribal Nations argue for.

1980 – The Supreme Court in *Washington v. Confederated Tribes of the Colville Indian Reservation* held the state had authority to impose taxes on certain on reservation activities.

1980 and 1983 – The Supreme Court issued decisions in *United States v. Mitchell*, which, although ruling in favor of the Tribal Nation party, construed the federal government's compensable fiduciary trust responsibilities to Tribal Nations for asset management more narrowly than what Tribal Nations argue for. The letter from Solicitor Krulitz was filed in the case and cited in the dissent.

1988 – Congress enacted the Indian Gaming Regulatory Act, creating a federal process under which Tribal Nations' may exercise their inherent sovereign rights to conduct gaming on their Indian lands, which has helped many Tribal Nations generate Tribal government revenue.

1989 – The Supreme Court issued a decision in *Cotton Petroleum Corporation v. New Mexico*, which applied the Bracker balancing test to weigh state, Tribal, and federal interests in determining whether states can impose tax on non-Tribal entities conducting commercial activities on Tribal land. SCOTUS noted that Congress could offer tax immunity, if it chose to do so.

1994 – Congress enacted the American Indian Trust Fund Management Reform Act, which reaffirmed and specified federal trust responsibilities, authorized Tribal Nations to manage trust funds, and established the Office of the Special Trustee for American Indians.

1994 – Congress passed the Federally Recognized Indian Tribe List Act, which directs the Department of the Interior to publish annually a list of federally recognized Tribal Nations and stipulates that federal agencies must treat all federally recognized Tribal Nations equally.

1997 – Secretary of the Interior Babbitt issued Secretarial Order No. 3206, entitled “American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act,” which clarified responsibilities when actions taken under the Endangered Species Act affect Indian lands, Tribal Nations’ trust resources, or the exercise of Tribal Nations’ rights.

1998 – The Supreme Court in *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.* refused to find an exception to Tribal Nations’ sovereign immunity for off reservation commercial activities.

2000 – Secretary of the Interior Babbitt issued Secretarial Order No. 3215, entitled “Principles for the Discharge of the Secretary’s Trust Responsibility,” which provided guidance to employees who carry out the trust responsibility as it pertains to Indian trust assets and reaffirmed the letter from Solicitor Krulitz. The Department of the Interior then codified those principles for managing Indian trust assets in the Departmental Manual.

2000 – President Clinton issued Executive Order No. 13175, entitled “Consultation and Coordination with Indian Tribal Governments,” which required federal agencies to consult with Tribal Nations for policies that have Tribal implications.

2003 – The Supreme Court issued a decision in *United States v. Navajo*, which construed the federal government’s compensable fiduciary trust responsibilities to Tribal Nations for asset management more narrowly than what Tribal Nations argue for.

2003 – The Supreme Court issued a decision in *United States v. White Mountain Apache Tribe*, which found the federal government, when using a Tribal Nation’s trust land or property, owes a duty to maintain that land or property.

2003 – The United States Commission on Civil Rights issued a report, entitled “A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country.”

2009 – The Supreme Court issued a decision in *Carcieri v. Salazar*, which ruled that the Secretary of the Interior’s authority to acquire land into trust on behalf of Tribal Nations under the Indian Reorganization Act was limited to only those Tribal Nations that were “under federal jurisdiction” in 1934.

2009 – President Obama held the first White House Tribal Nations Conference, where Tribal Leaders were invited to meet with the President and members of his Cabinet to discuss issues of importance to Indian country. President Obama continued to hold the White House Tribal Nations Conference each year.

2009 – President Obama issued a Memorandum for the Heads of Executive Departments and Agencies, entitled “Tribal Consultation,” which directed agencies to develop detailed action plans to implement the Tribal Nation consultation policies and directives of Executive Order No. 13175.

2009 – The United States settled the *Cobell* trust fund mismanagement litigation, and Secretary of the Interior Salazar issued Secretarial Order No. 3292, entitled “Individual Indian Trust Management,” which provided for the establishment of the Secretarial Commission on Indian Trust Administration and Reform to evaluate the Department of the Interior’s management and administration of Indian trust assets.

2010 – The United States endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), becoming the last nation to sign on, stating the “aspirations [the declaration] affirms, including the respect for the institutions and rich cultures of Native peoples, are one we must always seek to fulfill.”

2010 – The Indian Health Care Improvement Act is permanently reauthorized as a part of the Patient Protection and Affordable Care Act after a 10-year effort from Tribal Nations and organizations.

2010 – Congress enacted the Tribal Law and Order Act, removing barriers placed on Tribal Nations’ exercise of criminal jurisdiction by increasing the penalties a Tribal Nation may impose when they provide certain procedural rights to defendants.

2011 – In *United States v. Jicarilla Apache Nation*, the Department of Justice asserted that the federal government's legally enforceable trust obligations are limited to the terms of statutes and regulations, questioning the legal effect of the letter from Solicitor Krulitz. The Supreme Court reaffirmed that it looks to common law to determine the scope of federal Indian trust liability. It also stated “[t]he Government, following a humane and self-imposed policy ... has charged itself with moral obligations of the highest responsibility and trust.”

2013 – President Obama issued Executive Order No. 13647, entitled “Establishing the White House Council on Native American Affairs,” to ensure that the federal government engages in a true and lasting government-to-government relationship with federally recognized Tribal Nations in a more coordinated and effective manner, including by better carrying out its trust responsibilities.

2013 – The Secretarial Commission on Indian Trust Administration and Reform issued a report that recognized trust duties are not discretionary and recommended that the federal government (1) reaffirm that all federal agencies have a trust responsibility to Indians that demands a high standard of conduct, (2) develop a uniform consultation policy, and (3) restructure and improve the management, oversight, and accountability of federal trust administration.

2013 – The Supreme Court in *Adoptive Couple v. Baby Girl* interpreted the Indian Child Welfare Act narrowly, with some Justices asserting possible equal protection concerns.

2013 – President Obama signs the Violence Against Women Act Reauthorization (VAWA) into law. Tribal advocates fought hard to ensure that the law recognized our rights as inherent as opposed to granted. In signing the bill into law, President Obama expressed “Tribal governments have an inherent right to protect their people, and all women deserve the right to live free from fear.”

2014 – Secretary of the Interior Jewell issued Secretarial Order No. 3335, entitled “Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries,” which reaffirmed the letter from Solicitor Krulitz and set forth guiding principles for bureaus and offices to follow to ensure that the Department of the Interior fulfills its trust responsibility.

2016 – Standing Rock Protest begins in opposition to the Energy Transfer Partners' Dakota Access Pipeline project that would cross beneath the Missouri and Mississippi Rivers, as well as part of Lake Oahe near the Standing Rock Indian Reservation. The protest was in direct opposition to the threat the pipeline posed to the region's clean water and ancient burial grounds.

2017 – President Trump in his signing statement associated with appropriations legislation implied that some services for Indians are unconstitutionally race based, stating he will treat provisions that allocate benefits on the basis of race, ethnicity, and gender—listing the Native American Housing Block Grant program—in a manner consistent with the equal protection clause of the Constitution. He continued to include such language in appropriations legislation signing statements during his presidency.

2017 – President Trump signed a presidential memorandum to advance approval of construction of the Dakota Access Pipeline.

2018 – The Centers for Medicare and Medicaid Services within the Department of Health and Human Services took the position that providing or approving an exemption from Medicaid work requirements for Indians would raise civil rights concerns.

2018 – The United States Commission on Civil Rights issued a report entitled “Broken Promises: Continuing Federal Funding Shortfall for Native Americans,” which updates its prior 2003 report, entitled “A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country.”

2018 – The Reclaiming Native Truth: A Project to Dispel America's Myths and Misconceptions Report issued. It is the largest public opinion research project ever conducted by, for and about Native peoples. The research has been critically important in helping to start important and potentially transformative conversations with leaders in entertainment, media, K-12 education, philanthropy and other sectors. It has helped to validate, through data, the experiences of Native peoples across the country of how invisibility and toxic stereotypes that are perpetuated primarily by media, pop culture and K-12 education fuel bias and racism against Native peoples. It has raised important awareness among non-Natives allies about these systemic issues and the abundance of opportunities to work in partnership with Native peoples to advance narrative change and social justice.

2019 – On August 9, the Fifth Circuit Court of Appeals affirmed the constitutionality of the Indian Child Welfare Act (the Department of Justice defended the Indian Child Welfare Act's constitutionality). This decision was a reversal of the 2018 United States District Court for the Northern District of Texas decision in *Brackeen v. Bernhardt* that held the Indian Child Welfare Act violates the Constitution, including the equal protection clause (it further held that ICWA is race based, finding the principles of *Morton v. Mancari* do not extend to cover it).

2020-2021 – The United States and nations around the world contend with SARS-COV-2, the COVID-19 pandemic. Tribal Nations and Native American people are uniquely impacted by the virus due to the chronic underfunding of trust and treaty obligations, with higher rates of illness and poorer outcomes, as well as greater economic impacts due to lockdowns. The United States responds with several large spending packages designed to provide resources and relief to units of government and individuals throughout the country, including Tribal Nations and our citizens. The American Rescue Plan provides the single largest transfer of federal resources to Tribal Nations ever at \$31.2 billion. However, access to COVID-19 relief funding and other resources is uneven, and many of Indian Country's priorities are ignored. The United States Commission on Civil Rights attempts to update its Broken Promises report to reflect these failures, but a vote to publish these findings fails along partisan lines.

2020 – The Trump Administration attempts to disestablish a reservation for the first time since the Termination Era in ordering the homelands of the Mashpee Wampanoag Tribe taken out of trust. The disestablishment was put to a halt when the DC District Court deemed arbitrary and capricious Department of Interior's 2018 decision that the Mashpee Wampanoag Tribe did not prove it was "under federal jurisdiction" in 1934, and therefore did not meet the first definition of "Indian" under the Indian Reorganization Act—making the Tribal Nation ineligible to acquire land in trust.

2020 – On July 9, the Supreme Court issued its decision in *McGirt v. Oklahoma*, holding that the Muscogee (Creek) Nation's reservation is intact and remains Indian Country. The Court reaffirmed that reservations remain intact until Congress demonstrates clear congressional intent to disestablish them, such as through an "explicit reference to cession or other language evidencing the present and total surrender of all Tribal interests." The Court was not persuaded when Oklahoma argued that its wrongful exercise of jurisdiction over the land should affect the reservation disestablishment analysis. Courts have since applied this case to find that other reservations in Oklahoma remain intact. As such, prosecution of crimes by Native Americans on these lands falls into the jurisdiction of the Tribal courts and federal judiciary under the Major Crimes Act, rather than Oklahoma's courts.

2021 – Congresswoman Debra Haaland, a citizen of the Laguna Pueblo, is confirmed as the first-ever Native American Secretary of the Interior.

2021 – For the first time, the Office of Management and Budget, an agency within the Executive Office of the President, takes the position that it has consultative responsibilities to Tribal Nations leading to historic consultations on the President's Fiscal Year 2022 and 2023 Budget Requests.

2021 – On April 6, the United States Court of Appeals for the Fifth Circuit issued its en banc decision in *Brackeen v. Haaland*, where plaintiffs challenged the constitutionality of the Indian Child Welfare Act. The court held Congress had authority to enact the Act and that the Act's "Indian child" classification is not unconstitutionally race-based in violation of the Equal Protection Clause of the United States Constitution. However, the judges were equally divided and thus the District Court's ruling was affirmed without a precedential opinion that ICWA's adoptive placement preference for "other Indian families" and foster care placement preference for "Indian foster home[s]" both violate the Equal Protection Clause. Because federal Indian laws are a reflection of the political relationship between the United States and Tribal Nations, they have not been subject to the heightened level of Equal Protection Clause review required for racial classifications, so this decision represents a dangerous precedent and a violation of the government-to-government relationship. In September, petitions for *certiorari* were filed with the Supreme Court.

2021 – On June 25, the Supreme Court issued its decision in *Yellen v. Confederated Tribes of the Chehalis Reservation*, holding that Alaska Native Corporations are "Indian tribes" under the Indian Self-Determination and Education Assistance Act and, thus, are "Tribal governments" under the Coronavirus Aid, Relief, and Economic Security Act and eligible to receive Coronavirus Recovery Fund monies. The case placed before the Court questions regarding Tribal identity, Tribal sovereignty, and status as a Tribal Nation for purposes of federal Indian law.

2022 – On March 28, in its Fiscal Year (FY) 2023 Budget Request, the Biden Administration includes an unprecedented proposal to shift funding for the Indian Health Service (IHS) from the discretionary to the mandatory side of the federal budget, a move that stabilizes the agency and is more representative of perpetual trust and treaty obligations. Further, the proposal includes a 10-year plan to close funding gaps, increasing IHS funding to \$36.7 billion in FY 2032—a 296% increase over this period—and exempting agency funds from sequestration.

2022 – On June 21, President Biden announced his intention to appoint Mohegan Chief Mutáwi Mutáhash (Many Hearts), Marilynn "Lynn" Malerba, and USET Sovereignty Protection Fund Secretary, to be the next Treasurer of the United States. She is the first Native person to hold this position and the highest-ranking Native Treasury official in U.S. history. The Treasurer has direct oversight over the U.S. Mint, the Bureau of Engraving and Printing and Fort Knox, and is a key liaison with the Federal Reserve. In addition, the Treasurer serves as a senior advisor to the Secretary in the areas of community development and public engagement. For the very first time, the signature of a Native person, as well as those of two women, Chief Malerba and Treasury Secretary Janet Yellen, will appear on U.S. currency.

2022 – On June 29, the Supreme Court issued its decision in *Oklahoma v. Castro-Huerta*, holding that states have concurrent criminal jurisdiction over non-Indian crimes against Indians in Indian country under federal law. In a 5–4 vote, the Court reversed the decision of the Oklahoma Court of Criminal Appeals, which held that the state of Oklahoma did not have jurisdiction over crimes committed by a non-Indian against an Indian within Indian country. Importantly, while the case centered on Tribal criminal jurisdiction in Oklahoma, the decision is likely to have implications across Indian Country because it undermines centuries-old legal precedent that state law does not apply on our lands without congressional authorization. The majority opinion reflects a belief and position that "Indian Country is part of the State, not separate from the State."

2022 – USET SPF issues a white paper articulating the necessity and our vision for a Marshall Plan for Tribal Nations—a substantial, one-time payment (in addition to existing trust and treaty obligations to provide full and mandatory funding to Tribal Nations) on the United States' debt to Tribal Nations to bring us up to a baseline of economic and social stability. Much like the U.S. investment in the rebuilding European nations following World War II via the Marshall Plan, the legislative and executive branches should commit to the same level of responsibility to assisting in the rebuilding of Tribal Nations, as our current circumstances are, in large part, directly attributable to the shameful acts and policies of the United States. In the same way the Marshall Plan acknowledged America's debt to European sovereigns and was utilized to strengthen our relationships and security abroad, the United States should make this strategic investment domestically. Strong Tribal Nations will result in a strengthened United States.

2022 – On September 12, the White House announced the creation of the first-ever Tribal Advisor position within the Office of Management and Budget (OMB). This position will report directly to OMB Director Shalanda Young and will be responsible for coordinating Tribal Nation priorities across OMB's budgetary, management, and regulatory functions. The Tribal Advisor will also be responsible for coordinating with leaders in the White House and across the Administration and serve as a key point of contact for Tribal Nations.

2022 – The Biden Administration issues a Presidential Memorandum on Uniform Standards for Tribal Consultation, which seeks to establish minimum Tribal consultation standards across all federal agencies and reinforce that consultation is a diplomatic tool between Nations. The Memorandum requires that the Office of Personnel Management, in collaboration with the Department of the Interior, develop training modules for federal employees on Tribal consultation.

2022 – On December 1, the Department of the Interior includes in its Tribal Consultation Policy the first-ever Consensus-Seeking Mechanism to provide a process for the Department to seek consensus with Tribal Nations when DOI's actions would have an impact on our lands, governments, or citizens. Though greater detail and transparency are required, USET SPF was encouraged by the development of this Model as a first step toward achieving Tribal Nation consent for federal action, for which we have long advocated.

2022 – On December 29, H.R. 2617, the Consolidated Appropriations Act of 2023 provides \$5.129 billion in advance appropriations for the Indian Health Service (IHS) in Fiscal Year (FY) 2024. This provision is the result of nearly a decade of advocacy from USET SPF and our partner organizations. The Biden Administration joined advocacy efforts, as well, with many top federal officials taking to the halls of Congress in support of this change.

2023 – On June 15, the Supreme Court issued its opinion in the case of *Brackeen v. Haaland*, concerning the constitutionality of the Indian Child Welfare Act (ICWA). In a 7-2 decision authored by Justice Amy Coney Barrett, the Court rejected all challenges to ICWA, "some on the merits and others for lack of standing." *Brackeen v. Haaland* challenged the constitutionality of ICWA, which was enacted in 1974 in response to the disgraceful history and practice of separating Native American children from their families during adoption proceedings. The case was filed in federal court in Texas by the state and seven individuals. These individuals included three couples who are not Native American and had tried to foster or adopt children with Native American ancestry, as well as the biological mother of a Native American child whom one of the couples eventually adopted.

2023 – On June 15, the Supreme Court issued its opinion in *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin*. The question before the Court was whether the Bankruptcy Code expresses unequivocally Congress' intent to abrogate the sovereign immunity of Tribal Nations. In the majority opinion, SCOTUS held that the Bankruptcy Code "unambiguously abrogates the sovereign immunity of all governments, including federally recognized Indian Tribes." The vote on the case was 8-1, with Justice Neil Gorsuch dissenting. The Court's opinion in this case has the potential to expose Tribal Nations to costly, involuntary lawsuits under the Bankruptcy Code.

2023 – On December 6, the Biden Administration issues Executive Order 14112, *Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination*. The Executive Order does two very important things: First, it mandates that federal agencies extend greater flexibility to Tribal Nations' in our access to and use of federal funds. Second, unlike any other time in history, it seeks to gather robust and comprehensive data to better identify and quantify the United States' trust and treaty obligations.

2023 – On December 6, the Department of the Interior issues its final rule revising the 25 C.F.R. Part 151 Fee-to-Trust regulations. Importantly, the final rule codifies procedures for determining whether a Tribal Nation was 'under federal jurisdiction' in 1934. In the wake of the previous Administration's unconscionable attempts to remove USET SPF member, the Mashpee Wampanoag Tribe's, ancestral homelands from trust following its withdrawal of a process outlined in a departmental m-opinion, the codification of these procedures offer a level of certainty to the process that did not previously exist.

2023 – The Supreme Court issued a decision in *Arizona v. Navajo Nation* holding the United States did not have an affirmative trust or treaty obligation to identify and account for the Tribal Nation's water rights despite agreeing that the Tribal Nation did have reserved *Winters* doctrine water rights associated with its reservation.

2024 – On June 6, the Supreme Court ruled in a 5-4 decision that the federal government is required to reimburse Tribal Nations for contract support costs (CSC) incurred by Tribal Nations when spending third-party revenues to operate healthcare programs. This ruling advances the purpose of ISDEAA by promoting Tribal self-determination and ensuring that Tribal Nations will have access to adequate resources to administer our healthcare programs and services.

2024 – On September 13, the Department of Treasury announced the publication of a Notice of Proposed Rulemaking implementing section 139E of the Internal Revenue Code, created by the Tribal General Welfare Exclusion Act of 2014 (GWE), which was enacted in response to the Internal Revenue Service's (IRS) improper auditing and taxation of benefits provided to Tribal citizens by their Nations, including ceremonial honoraria and back-to-school assistance. The proposed rule comes after nearly a decade of advocacy from Tribal Nations and organizations, including USET SPF, as well as considerable work from Treasury's Tribal Advisory Committee (TTAC).

2024 – On October 7, after 30 years of Tribal advocacy, the Department of Treasury announced the publication of proposed guidance to confirm that wholly-owned Tribally Chartered Corporations share the same tax status as the Tribal Nations under which they are chartered—that is, they are tax exempt.

2024 – The Supreme Court denied certiorari and left in place a decision by the First Circuit upholding the Department of the Interior's decision that the Mashpee Wampanoag Tribe was under federal jurisdiction when the Indian Reorganization Act was enacted in 1934 sufficient to satisfy *Carcieri* and acquire land into trust.

2024 – The Supreme Court denied certiorari and left in place a decision by the DC Circuit upholding the Seminole Tribe of Florida's gaming compact that regulated online sports betting where wagers were placed by patrons located outside the Tribal Nation's Indian lands.

2024 – President Biden apologized for the United States' role in the devastating Indian boarding school era.