



# USET

SOVEREIGNTY PROTECTION FUND

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## USET SPF Resolution No. 2017 SPF:004


### **SUPPORT OF THE TOWER CONSTRUCTION NOTIFICATION PROCESS OPERATED BY THE FEDERAL COMMUNICATIONS COMMISSION**


- WHEREAS,** United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of twenty-six (26) federally recognized Tribal Nations; and
- WHEREAS,** the actions taken by the USET SPF Board of Directors officially represent the intentions of each member Tribal Nation, as the Board of Directors comprises delegates from the member Tribal Nations' leadership; and
- WHEREAS,** as telecommunication companies expand access to broadband and cellular services, required infrastructure is being installed across the United States, including in the ancient homelands of Tribal Nations; and
- WHEREAS,** in accordance with Section 106 of the National Historic Preservation Act, the Federal Communications Commission is required to consult with Tribal Nations on federal undertakings including the licensing of cell towers;
- WHEREAS,** not only is it essential that Tribal Nations have the opportunity to comment on the potential impact of communications and other types of infrastructure on sacred sites or objects, but also Tribal Nations possess unique expertise in the evaluation of impacts that affect tribal interests, which expertise is of great benefit to the FCC and to telecommunication companies; and
- WHEREAS** the provision of this cultural expertise, just like the provision of engineering or environmental consulting services, justifies the payment of reasonable fees to Tribal Nations; and
- WHEREAS,** according to its Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes, the Federal Communications Commission (FCC), "recognizes its own general trust relationship with, and responsibility to, federally-recognized Indian Tribes. The Commission also recognizes the rights of Indian Tribal governments to set their own communications priorities and goals for the welfare of their membership"; and
- WHEREAS,** in response to a recognized need to provide both Tribal Nations and telecommunications companies with information regarding planned construction and local Tribal Nation interests, the Tower Construction Notification System (TCNS) was established more than 10 years ago in collaboration with the Federal Communications Commission (FCC) and all Tribal Nations; and

- WHEREAS,** TCNS is an online, password-protected system that notifies Tribal Nations of proposed communications tower construction in areas of interest designated by the recipients and provides a means for Tribal Nations and telecommunication companies to communicate directly with each other regarding concerns about proposed construction locations; and
- WHEREAS,** according to the FCC, “the TCNS is intended to advance the goal of the National Historic Preservation Act to protect historic properties, including Tribal religious and cultural sites, in an efficient and convenient manner that promotes the interests of both the Tribes and the communications industry.”; and
- WHEREAS,** USET SPF believes that TCNS has helped preserve and protect Tribal sacred sites, burial sites, and landscapes, while also providing the telecommunications industry with critical information necessary to meet its obligations under federal law; and
- WHEREAS,** in August 2016, FCC representatives informed Tribal representatives that a telecommunications carrier had stated that it would cease payment to Tribal Nations as part of the TCNS process in the near future due to perceived burdensome fees for Tribal professional services by a few Tribal Nations, as well as slow response times and unnecessary research requirements; and
- WHEREAS,** USET SPF strongly supports the existence and continuation of the TCNS and strongly believes that reasonable fees are essential for Tribal Nations to conduct proper evaluations and assessments of proposed construction, benefitting both Tribal Nations and industry; and
- WHEREAS,** it is our understanding that the FCC has already reached out to the small number of Tribal Nations that have captured the attention of industry and USET SPF supports the agency continuing to deal with these issues on a case-by-case basis; and
- WHEREAS,** USET SPF is seeking official tribal consultation on this issue and requests that the FCC support tribal efforts to resolve any outstanding issues.
- RESOLVED** that the Federal Communications Commission honor the government-to-government relationship and work with Tribal Nations to protect the Tower Construction Notification System program and to discourage elements within the telecommunications industry from undercutting the proven benefits of the Tower Construction Notification System for both industry and Tribal Nations.

### CERTIFICATION

This resolution was duly passed at the USET SPF Annual Meeting, at which a quorum was present, in Cherokee, NC, October 26, 2016.

  
Chief Kirk Francis, President  
United South and Eastern Tribes  
Sovereignty Protection Fund

  
Chief Lynn Malerba, Secretary  
United South and Eastern Tribes  
Sovereignty Protection Fund

*Because there is Strength in Unity*