



UNITED SOUTH AND EASTERN TRIBES, INC.

USET Resolution No. 2001:03

RESOLUTION TO OPPOSE DELEGATION OF THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) AUTHORITY ON TRIBAL WATERS TO ANY STATE

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an internal organization comprising twenty-four (24) federally recognized Tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from each member Tribes' leadership; and
- WHEREAS,** a unique Trust Relationship exists between the United States Government and the federally recognized Tribes; and it is exercised through the U.S. Constitution, Treaties, Presidential Directives, and congressional declarations; and
- WHEREAS,** all Federal agencies, by virtue of being agents of the U.S. Government, have a duty and obligation to carry out the U.S. Governments Trust Responsibilities; and
- WHEREAS,** the U.S. Government cannot delegate, transfer, assume or otherwise discharge its Trust Responsibilities regarding Tribal water issues such as, the National Pollution Discharge System (NPDES) in Indian waters, to any entity or state without the authorization of the federally recognized Tribe; and
- WHEREAS,** the U.S. Environmental Protection Agency is considering an application from the State of Maine to assume full authority of EPA's NPDES program including Tribal waters; and
- WHEREAS,** the Maine Tribes (the Passamaquoddy Tribe at Pleasant Point, Passamaquoddy Tribe at Indian Township, Penobscot Nation, Houlton Band of Maliseet Indians, and the Aroostook Band of Micmacs) are all Federally Recognized Sovereign Governments; and
- WHEREAS,** this issue has National implications by setting a precedent of authorizing intrusion of State regulation of water quality in Indian Country; and
- WHEREAS,** the U.S. Environmental Protection Agency (EPA) consulted with the U.S. Department of Interior (DOI), the cognizant Federal Agency for Tribal Governments, and a U.S. DOI opinion was developed supporting the Tribes. A draft final opinion was submitted to EPA after consultation with the Maine Tribes; and
- WHEREAS,** U.S. DOI did not send a final opinion protecting the Tribes Trust Natural Resources and waters; and
- WHEREAS,** U.S. EPA has had over the years, a very limited relationship with the Tribes, and may decide to support the Maine NPDES delegation disregarding Tribal Government-to-Government relations, EPA Policy, Executive Orders and Trust Responsibilities; and
- WHEREAS,** the State of Maine has failed to incorporate Tribal Concerns into the state decision making process; and

“Because there is strength in Unity”

WHEREAS, the State of Maine has historically failed to recognize the Maine Tribes as Sovereign Nations and has failed to protect the Tribes natural resources or address Tribal cultural concerns; and

WHEREAS, the Maine Tribes are members, in good standing, of the United South and Eastern Tribes, Inc. (USET); therefore be it

RESOLVED by the USET Board of Directors that USET fully and actively supports the Maine Tribes opposition to the application of the State of Maine to the U. S. Environmental Protection Agency that would like to assume all authority and jurisdiction of their National Pollution Discharge System (NPDES) within the borders of the Tribal land, specifically where such delegation effects and impacts lands, water bodies, and other natural resources belonging to their respective Tribes; be it further

RESOLVED the USET Board of Directors requests and strongly encourages the EPA to recognize its Trust Responsibilities to the Maine Tribes and any other Federally Recognized Tribe, and not delegate NPDES authority to the State of Maine or any other State in any manner that includes lands, waters, and other Natural Resources belonging to the Tribes; be it further

RESOLVED the USET Board of Directors direct the President and Executive Director to prepare a letter of support, position paper, or other document that conveys USET's Board of Directors support of the Maine Tribes, and transmit said document to DOI, EPA, NCAI, President Clinton via Lynn Cutler, and the State and Federal Courts, as appropriate; be it further

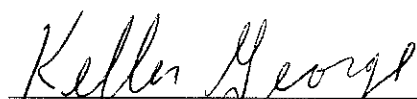
RESOLVED the USET Board of Directors supports and directs the President to vigorously inquire, on behalf of the Maine Tribes, into the status of DOI, Solicitor's Office "Final Opinion" and the hesitancy in issuing this vital opinion; be it further


RESOLVED the USET Board of Directors authorizes that the President and Executive Director are empowered to testify and file a friend of the court brief as needed and appropriate; be it further

RESOLVED the USET Member Tribes actively stand in unity with the Maine Tribes in opposition to EPA delegation of their Trust Responsibilities to the State of Maine be attending pending legal proceedings, each member Tribe conveying support to the Maine Tribes by providing the presence at future events organized by the Maine Tribes as available.

CERTIFICATION

This resolution was duly passed at the USET Annual Meeting, at which a quorum was present in Verona, NY on Thursday, November 2, 2000.


Keller George, President
United South and Eastern Tribes, Inc.


Beverly Wright, Secretary
United South and Eastern Tribes, Inc.