



## UNITED SOUTH AND EASTERN TRIBES, INC.

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USET Resolution No. 2003:004

### **OPPOSITION TO THE DELEGATION OF THE NATURAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) AUTHORITY ON TRIBAL WATERS TO THE STATE OF MAINE**

- WHEREAS,** United South and Eastern Tribes, Incorporated (USET), is an intertribal organization comprised of 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 member tribes' leadership; and
- WHEREAS,** a unique *trust relationship* exists between the United States Government and the federally recognized Indian Tribes, as established in the U.S. Constitution, Treaties, Presidential Directives, and Congressional Declarations; and
- WHEREAS,** the U.S. Environmental Protection Agency (EPA) is considering an application from the State of Maine to assume full authority NPDES that would include Tribal Waters; and
- WHEREAS,** federally recognized Indian Tribes retain all sovereign authority not expressly removed by Congress; and
- WHEREAS,** federally recognized Indian Tribes exercise sovereign authority over their lands and natural resources unless Congress specifically acts to prevent the exercise of that authority; and
- WHEREAS,** the Passamaquoddy Tribe at Pleasant Point, Passamaquoddy Tribe at Indian Township, Penobscot Nation, Houlton Band of Maliseet Indians, and the Aroostook Band of Micmac Indians are all federally recognized sovereign nations, and members in good standing with the USET organization (herein after referred to as the Maine Tribes); and
- WHEREAS,** federal laws pertaining to Maine Tribes do not prevent these Tribes from exercising control over water quality on their lands; and
- WHEREAS,** delegation or grant of authority to the State of Maine to operate the Clean Water Act NPDES program over tribally owned lands, without the consent of the Maine Tribes is a violation of federal Indian Law, MICSA (Maine Indian Claims Settlement Act), and the Aroostook Band of Micmac Indians Settlement Act; and
- WHEREAS,** the Department of Interior (DOI) is designated by Congress to be the lead federal agency with a fiduciary responsibility for protecting and preserving the sovereign rights of federally recognized Indian Tribes; and
- WHEREAS,** the Environmental Protection Agency (EPA) regulations direct states to consult with DOI regarding State/Tribal Jurisdiction; and
- WHEREAS,** the EPA has not been granted authority by congress to in any way diminish Tribal Jurisdiction; therefore, be it
- Resolved** that the USET Board of Directors requests the EPA to retain authority over the Clean Water Act NPDES program for Tribal lands in the State of Maine; and, be it further
- Resolved** that the USET Board of Directors encourages the EPA to accept and rely upon DOI determinations regarding Tribal jurisdiction and trust matters; and, be it further

*“Because there is strength in Unity”*

USET Resolution No. 2003:004

- Resolved** that the USET Board of Directors strongly encourages the EPA to carefully consider and recognize their federal fiduciary responsibilities to the Maine Tribes in making a decision on the State of Maine's Clean Water Act NPDES Application; and, be it further
- Resolved** that the USET Board of Directors staunchly and proactively support the Wabanaki in their efforts to defend their sovereign rights to determine their own destinies, manage their own natural resources, perpetuate their traditional and customary ways of living their culture, by preventing the State of Maine or any other entity from interfering with the Maine Tribes Sovereign rights and governmental responsibilities; and, be it further
- Resolved** that the USET Board of Directors rejects and espies no basis for the State of Maine's claims of appropriate jurisdictional authority over Tribal lands and waters within the borders of the State of Maine; and, be it further
- Resolved** that the USET Board of Directors again strongly encourages the EPA to carefully consider and recognize their Trust and Fiduciary responsibilities to the Maine Tribes, as well as all Federally Recognized Tribes in making decisions on NPDES delegation and other issues and matters that have implications nation-wide, and calls upon EPA Administrator Christie Todd-Whitman to become actively involved in reviewing all decisions concerning the delegation of NPDES authority to the State of Main or any other State in a manner that diminishes or denigrates the benefits of the Tribal/Federal trust relationship, infringes upon Tribal lands and waters, or otherwise denies a Tribe of their natural resources; and therefore be it
- Resolved** that the USET Board of Directors further encourages EPA Administrator Christine Todd-Whitman to consult *directly and personally* with the Maine Tribes on a government-to-government basis regarding NPDES issues with the State of Maine.

**CERTIFICATION**

This resolution was duly passed at the USET Annual Board Meeting and EXPO, at which a quorum was present, in Uncasville, CT, Thursday, October 31, 2002.



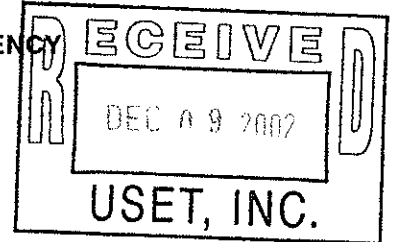
Keller George, President  
United South and Eastern Tribes, Inc.



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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023



OFFICE OF THE  
REGIONAL ADMINISTRATOR

*FILE  
Resolution Book*

December 3, 2002

Ms. Tiffany D. Chevront  
Bureau Information Officer  
United Southern and Eastern Tribes, Inc.  
711 Stewarts Ferry Pike, Suite 100  
Nashville, TN 37214

Dear Ms. Chevront:

Thank you for sending us a copy of USET Resolution No. 2003:004, Opposition To The Delegation Of The National Pollution Discharge Elimination System (NPDES) Authority On Tribal Waters To The State Of Maine.

We are placing the resolution in our record for the decision of this issue, and we will give the points made in the resolution careful consideration.

Sincerely,

Robert W. Varney  
Regional Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 23 2003

Ms. Tiffany D. Cheuvront  
Bureau Information Officer  
United Southern and Eastern Tribes, Inc.  
711 Stewarts Ferry Pike, Suite 100  
Nashville, TN 37214

OFFICE OF  
WATER

Dear Ms. Cheuvront:

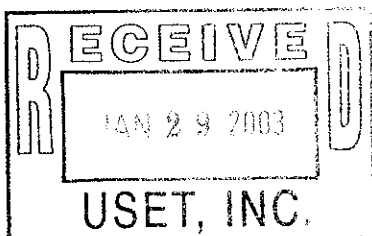
Thank you for your letter dated November 18, 2002, and the three resolutions approved at the United Southern and Eastern Tribes' (USET) meeting in October of 2002.

I appreciate USET's interest in EPA's tribal programs. EPA strives to act in accordance with our federal trust responsibility to tribes in all our activities. Input from tribal organizations such as USET, along with direct communication and consultation with Indian tribes, is crucial for EPA to successfully implement our 1984 Indian Policy.

Resolution 2003:004, titled "Opposition to the Delegation of the National Pollution Discharge Elimination System (NPDES) Authority on Tribal Waters to the State of Maine" will be placed in our record of decision for the Maine NPDES program application. Please know that EPA has consulted extensively with the Maine Tribes concerning the State's NPDES application. Most recently, on December 6, 2002, Regional Administrator Robert Varney met with leaders and representatives of the Penobscot and Passamaquoddy Tribes. Mr. Varney was accompanied by Carol Jorgensen, Director of EPA's American Indian Environmental Office here in Washington, DC. Input from the Maine Tribes, along with USET's resolution, are among the many factors currently being considered by EPA on this issue.

Resolution 2003:006, titled "Tribal Environmental Program Budget" and Resolution 2003:007, titled "EPA and Tribes", concern more general matters of EPA tribal program implementation and funding. The points made in these Resolutions will be considered in the appropriate contexts, including our all-important strategic planning and budgetary processes.

Again, I appreciate the interest in EPA's tribal programs shown by USET and its member tribes.



Sincerely,

G. Tracy Mehan, III  
Assistant Administrator



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contains at least 50% recycled fiber