



UNITED SOUTH AND EASTERN TRIBES, INC.

USET Resolution No. 2003:056

NIGC TECHNICAL ASSISTANCE AND CONSULTATION WITH TRIBAL GOVERNMENTS REGARDING IMPLEMENTATION OF THE AMENDED REGULATORY DEFINITION

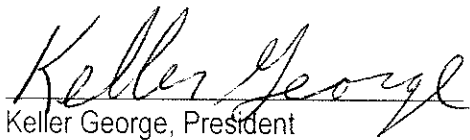
- WHEREAS,** United South and Eastern Tribes, Incorporated (USET) is an intertribal organization comprised of twenty-four (24) federally recognized tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member tribe, as the Board of Directors comprises delegates from the member tribes' leadership; and
- WHEREAS,** the U.S. Supreme Court and Congress recognize that tribal governments retain the inherent sovereignty to conduct gaming operations in order to generate governmental revenue and attain economic self-sufficiency; and
- WHEREAS,** Congress enacted the Indian Gaming Regulatory Act (IGRA) to promote Indian economic development and build strong tribal governments by protecting Indian gaming as a means of generating tribal governmental revenues; and
- WHEREAS,** by enacting IGRA, Congress made clear their intention for tribal governments to apply new methods of technology in the use of technologic aids to Class II gaming; and
- WHEREAS,** the Ninth, Tenth, and District of Columbia Federal Circuit Courts of Appeals have recognized, through written case opinions, that the Johnson Act does not apply to IGRA technological aids to Class II games; and
- WHEREAS,** on June 16, 2002, in 67 Federal Register 41166, the National Indian Gaming Commission (NIGC) adopted a final rule amending its regulatory definitions by removing the reference to the Johnson Act from the definition of electronic and electromechanical facsimiles and made other vital changes, which reflect that Congress did not intend for the Johnson Act to apply to IGRA technological aids to Class II games; and
- WHEREAS,** the NIGC has been inconsistent in implementing the final rule amending its regulatory definitions, and has not consulted with tribal governments in that implementation; and
- WHEREAS,** the U.S. House of Representatives has included a one-time \$2 million federal appropriation for additional funding of the NIGC in the Fiscal Year 2003 Interior Appropriations bill; and
- WHEREAS,** the U.S. Senate passed a FY 2003 Omnibus Appropriations bill that does not include a federal appropriation for the NIGC; therefore, be it
- RESOLVED** that the USET Board of Directors respectfully requests that the Appropriations Conferees adopt the language contained within the U.S. House Appropriations bill as it relates to NIGC; and, be it further
- RESOLVED** that the USET Board of Directors calls upon the United States Congress to adopt language in the Fiscal Year 2003 Omnibus Appropriations bill to direct NIGC to use a portion of its one-time federal appropriation to consult with tribal governments in the implementation of the Amended Regulatory Definitions set forth at 67 Federal Register 41166 (June 17, 2002).

“Because there is strength in Unity”

USET Resolution No. 2003:056

CERTIFICATION

This resolution was duly passed at the USET Impact Week Meeting at which a quorum was present, in Arlington, Virginia, on Thursday, February 6, 2003.



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



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



UNITED SOUTH AND EASTERN TRIBES, INC.
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February 10, 2003

The Honorable Dale Kildee, Co-Chairman, Congressional Native American Caucus
The Honorable J.D. Hayworth, Co-Chairman, Congressional Native American Caucus

Dear Congressman Kildee:

On behalf of the United South and Eastern Tribes, Inc., we ask that you support the President's request for a \$2 million federal appropriation for the National Indian Gaming Commission with the following statutory directive: "provided that 4% of such funds shall be used to consult with Indian Tribes on a government-to-government basis to implement the regulation published at 67 Federal Register 41166 (June 17, 2002)." The NIGC issued these regulations without using a tribal advisory committee according to customary practice. The Commission's field offices have since issued conflicting interpretations of the new regulation. Thus, a statutory direction is required to correct this departure from the government-to-government relations policy.

The National Indian Gaming Commission, through the Administration and the Office of Management and Budget, requested a \$2 million appropriation for FY 2003 as authorized under the Indian Gaming Regulatory Act, in addition to its \$8 million annual fee assessments on Indian Tribes. The House of Representatives included \$2 million for NIGC in its FY 2003 Appropriation bill but the Senate included \$0. It is rumored that the Interior Department and the NIGC are seeking to amend the Indian Gaming Regulatory Act on the FY 2003 Omnibus Appropriations bill to raise the \$8 million fee cap. Such a provision clearly violates all congressional rules by legislating on an appropriations bill, and only serves to prove that the NIGC needs to be reminded of its obligation to consult with affected tribal governments. The United South and Eastern Tribes were never offered the opportunity to review the NIGC's proposal to give itself a raise at our expense.

Please reject this proposal to amend the fee cap – and enact the President's request for \$2 million appropriation, with the suggested consultation language. Thank you for your thoughtful consideration of this important request.

Sincerely,

Keller George
President of USET, Inc.

"Because there is strength in Unity"



"Because There is Strength in Unity"

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FAX COVER SHEET

TO: *National Indian Gaming Assn.*

FROM: *James P. Martin*

DATE: *02-11-03*

OF PAGES (incl. cover): *3*

COMMENTS:

USET Resolution No. 2003: 056

NIGC Technical Assistance and Consultation

with Tribal Governments Regarding Implementation
of the Amended Regulatory Definition

202-546-1755

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UNITED SOUTH AND EASTERN TRIBES, INC.

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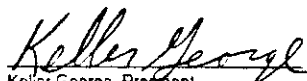
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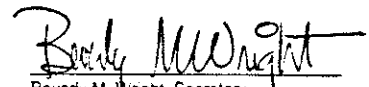
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United South and Eastern Tribes, Inc.

FACSIMILE TRANSMISSION

DATE: February 11, 2003
TO: Tim Martin
FAX #: 615 872-7417
FROM: Keller George,
5218 Patrick Road, PO Box 126
Verona, NY 13478
Phone: 315-361-7889
FAX: 315-361-7709



NUMBER OF PAGES INCLUDING THIS COVER: 2

COMMENTS:

Hi Tim,
Here is a copy for your files of the letter that I sent out this morning.

Thanks,
Kathy

KG\kk

CONFIDENTIALITY NOTE

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Any problems with this transmission please call Kathy at 315-361-8589