



# USET

SOVEREIGNTY PROTECTION FUND

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## USET SPF Resolution No. 2023 SPF:009

### **DEMAND FOR GOVERNOR CATHY HOCHUL TO SIGN LEGISLATION PROTECTING UNMARKED BURIAL SITES ON PRIVATELY OWNED LAND WITHIN NEW YORK AND CONDUCT GOVERNMENT-TO-GOVERNMENT CONSULTATION WITH TRIBAL NATIONS**

- WHEREAS,** United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of thirty-three (33) 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,** USET SPF Board of Directors unequivocally supports the protection of Native Peoples' sacred places, sacred objects and ancestors, and is unconditionally opposed to their desecration or dispossession and to any adverse impact, damage, endangerment, injury or threat to them; and
- WHEREAS,** Article 11 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) recognizes the right of Tribal Nations to "practice and revitalize their cultural traditions and customs" which includes "the right to maintain, protect and develop the past, present, and future manifestations of their cultures, such as archaeological and historical sites" and items of cultural significance; and
- WHEREAS,** Article 12 of the UNDRIP further provides that states have a duty to "seek to enable access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent, and effective mechanisms developed in conjunction with indigenous peoples concerned[;]" and
- WHEREAS,** the state of New York is one of only a few states that does not provide legal protections for unmarked burial sites, ancestral remains and funerary objects unearthed on private lands; and
- WHEREAS,** much effort has been made by Tribal Nations and Native people in the state of New York to protect all human remains and funerary objects from desecration and destruction; and
- WHEREAS,** in late May and early June of 2022, both houses of the New York State Legislature unanimously passed the Unmarked Burial Site Protection Act (the "Act"); and
- WHEREAS,** the Act would have required the "cessation of all ground disturbing activities upon the discovery of a burial ground, human remains or funerary objects" and would have further required a determination of whether the remains were of Native American origin and if so, then such remains would have to be returned to the Tribal Nation from which they likely originated; and

- WHEREAS,** this legislation would also have established a Native American Burial Site Review Committee to provide for notice and return of ancestral remains to Tribal Nations, and would have established criminal penalties for the violation, disturbance, or failure to report the unearthing of burial locations, ancestral remains, or funerary objects; and
- WHEREAS,** New York Governor Kathy Hochul used her veto power on December 30, 2022, to stop the Act from becoming state law; and
- WHEREAS,** Governor Hochul’s reason for vetoing the bipartisan legislation was based on the need to protect private property and development interests over the need to protect human remains and funerary objects; and
- WHEREAS,** Governor Hochul’s veto of the Act evinces a pattern of disrespect for the rights of Tribal Nations and Native people; and
- WHEREAS,** in addition to vetoing the Act, Governor Hochul vetoed a bipartisan bill on December 22, 2021, that would have protected the treaty rights of Native people to hunt and fish within their aboriginal territories; and
- WHEREAS,** Governor Hochul’s prioritization of private property and development interests over human rights is contrary to almost every other state in the country and federal law, and blatantly ignores the devastating impact of colonization on Native people and our culture; and
- WHEREAS,** the Tribal Nations in New York and other USET SPF member Tribal Nations were the first to contend with 17<sup>th</sup> and 18<sup>th</sup> century local colonial governments and distant European nations at the onset of colonization in North America; and
- WHEREAS,** over the centuries, we faced colonial wars, disease and forced assimilation policies that devastated our populations and led to tremendous loss of land, much of which is now held by private landowners; and
- WHEREAS,** many of the ancestors and funerary objects of the Tribal Nations in New York and other USET SPF member Tribal Nations are buried on lands no longer within our jurisdictional boundaries; and
- WHEREAS,** rapidly increasing development and illicit digging activities in New York have resulted in the destruction of burial sites, funerary objects, and other objects of cultural significance to the Tribal Nations located within the state’s borders; and
- WHEREAS,** the overwhelming bipartisan support of the New York Legislature for the Act shows that the citizens of New York prioritize human rights and the protection of human remains and funerary objects; and
- WHEREAS,** in December 2010, the United States recognized the rights of its First Peoples through its support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), whose provisions and principles support and promote the purposes of this resolution; therefore, be it

*Because there is Strength in Unity*

**RESOLVED** that USET SPF denounces Governor Hochul’s veto of the Unmarked Burial Site Protection Act as it demonstrates an utter disregard for the fundamental rights of Tribal Nations, Native people, and all New Yorkers; and be it further

**RESOLVED** that USET SPF calls upon the New York State Legislature to repass the Act in substantially the same form, and calls upon Governor Hochul to sign such Act into legislation in the current legislative session; and be it finally

**RESOLVED** that USET SPF requests that Governor Hochul and New York State Lieutenant Governor Antonio Delgado immediately engage in government-to-government consultation with the leadership of the Tribal Nations in New York to ensure the adequate identification and protection of all human remains and funerary objects unearthed on privately owned lands within the state’s boundaries.

**CERTIFICATION**

This resolution was duly passed at the USET SPF Impact Week Meeting held in Arlington, VA at which a quorum was present on February 7, 2023.



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



Vice Chairwoman Sarah Harris, Secretary  
United South and Eastern Tribes  
Sovereignty Protection Fund