ENVIROMENTAL PROTECTION AGENCY PROPOSED RULEMAKING TO INCLUDE TRIBES IN SECTION 303(D) IMPAIRED WATERS UNDER THE CLEAN WATER ACT

WHEREAS, United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-six (26) 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, Congress has through the years recognized the importance of clean surface waters in the United States through passage of and amendments to the Clean Water Act (CWA) as administered by the United States Environmental Protection Agency (EPA); and

WHEREAS, under Section 303(d) of the CWA, states, territories, and authorized Tribes are required to identify waters within their boundaries that are too polluted or otherwise degraded to meet the water quality standards set by the respective state, territory, or authorized Tribe; and

WHEREAS, the term reservation also includes Tribal trust lands and reservation lands; and

WHEREAS, Tribes without EPA-approved water quality standards have no mechanism in place to have polluted reservation waters declared as “Impaired Waters”; and

WHEREAS, a “Black Hole” is created when waters upstream and downstream of a reservation are declared as “Impaired Waters”; and

WHEREAS, this inability to have polluted on-reservation waters declared as “Impaired Waters” has the potential to inhibit Tribes from receiving funds for preventing pollution and implementing Best Management Practices so that runoff from agriculture, homes, and businesses does not add to the pollution problem; and

WHEREAS, EPA is initiating consultation and coordination with Tribes on a proposed rulemaking to provide more opportunities to fully engage Tribes in CWA Section 303(d) Impaired Waters Listing and Total Maximum Daily Load (TMDL) Program; and

WHEREAS, this action by EPA will provide opportunities by clarifying the process for Tribes to obtain Treatment in a Similar Manner as a State (TAS) authority for this program; and

WHEREAS, the proposed rule will provide a process for eligible Tribes to assume CWA Section 303(d) and TMDL portions of their water pollution control programs and more fully engage in restoring, maintaining, and protecting Tribal waters; 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

RESOLVED the USET Board of Directors supports the United States Environmental Protection Agency’s proposed rulemaking which will authorize Tribes to designate Clean Water Act Section 303(d) “Impaired Waters” on their respective reservations and Tribal trust lands.

CERTIFICATION

This resolution was duly passed at the USET Semi-Annual Meeting, at which a quorum was present, in Bar Harbor, ME, June 4, 2014.

Brian Patterson, President
United South and Eastern Tribes, Inc.

Brenda Lintinger, Secretary
United South and Eastern Tribes, Inc.

“Because there is strength in Unity”