



USET

SOVEREIGNTY PROTECTION FUND

Nashville TN Office
711 Stewarts Ferry Pike, Ste. 100
Nashville TN 37214
P: (615) 872-7900
F: (615) 872-7417

Washington DC Office
400 North Capitol St., Ste. 585
Washington DC 20001
P: (202) 624-3550
F: (202) 393-5218

USET SPF Resolution No. 2018 SPF:017

OPPOSITION TO DISCHARGE OF TREATED FRACKING WASTE WATER INTO THE ALLEGHENY RIVER AND SUPPORT FOR TRIBAL NATIONS' EFFORTS TO PROTECT THEIR NATURAL RESOURCES AGAINST CONTAMINANTS

- WHEREAS,** United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is an intertribal organization comprised of twenty-seven (27) 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,** Tribal Nations are independent sovereign nations that pre-date the United States (U.S.); and
- WHEREAS,** a unique government-to-government relationship exists between Tribal Nations and the federal government, supported by the U.S. Constitution, numerous treaties, statutes, federal court case law, regulations, and Executive Orders; and
- WHEREAS,** the federal government has a trust responsibility to federally recognized Tribal Nations, which includes a fundamental obligation to protect Tribal lands, water, and natural resources; and
- WHEREAS,** natural resources such as native plants, trees, fish and wildlife, water and air, are critical to the long-term survival and health of Native peoples and have an important role in Tribal customs and traditions; and
- WHEREAS,** the lands and natural resources of Tribal Nations are often put at risk by actions taking place outside their lands and over which Tribal Nations have no legal control; and
- WHEREAS,** the federal and state governments often have environmental regulatory authority over development projects that have harmful environmental impacts on Tribal Nations' natural resources and should take these harms into account in their decision-making; and
- WHEREAS,** the Pennsylvania Department of Environmental Protection (PADEP) is considering a proposal by Epiphany Allegheny LLC (Epiphany), to develop a produced water treatment plant in Eulalia Township, Pennsylvania with the capacity to discharge 42,000 gallons per day of treated oil and gas wastewater (or brine) into the Allegheny River, approximately 65 miles upstream of the Seneca Nation's Allegany Territory; and
- WHEREAS,** a decision by PADEP to approve project permits could result in discharging highly-contaminated wastewater into the Allegheny River upstream from the Seneca Nation's lands and waters without the consent of the Seneca Nation; and

- WHEREAS,** discharges entering the Seneca Nation territories will be the result of a process that Epiphany has never used in a full-scale facility to treat fracking waste water; and
- WHEREAS,** the Epiphany project will store untreated waste in the Allegheny River floodplain, putting the Seneca Nation at risk of being exposed to radiation-contaminated water in the event of a large-scale flood or accident; and
- WHEREAS,** the Seneca Nation has suffered injustices through the taking of much of its extensive land base and water through numerous treaties, as well as encroachment of its lands by non-Seneca settlers and entities; and
- WHEREAS,** in the past, the U.S. exercised eminent domain and constructed the Kinzua Dam on the Allegheny River to create the Allegheny Reservoir, without the consent of the Seneca Nation, which resulted in the loss of 10,000 acres of the Nation's Allegany Territory and devastating displacement and relocation of hundreds of Seneca citizens; and
- WHEREAS,** the Allegheny River is sacred and critical to the subsistence of the Seneca people, and the Allegheny Reservoir is used by the surrounding communities as a popular outdoor recreation complex where people swim, boat, and fish; and
- WHEREAS,** the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Pennsylvania Fish and Boat Commission, New York State Department of Environmental Conservation, environmental organizations, and individuals have submitted comments to the State of Pennsylvania permitting authority expressing concerns about the project and potential impacts on the Allegheny River, Reservoir, and local communities; and
- WHEREAS,** the Seneca Nation strongly opposes the issuance of any permit that will allow contaminants to put at risk the Seneca people, lands, waters, and both natural and cultural resources, which include the sustenance rights of the Seneca Nation; 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 SPF Board of Directors supports the Seneca Nation in its efforts to protect its lands, natural resources, and sovereign rights to oppose actions, such as the Epiphany permits, in order to protect the Seneca people from contamination brought onto their lands; and, be it further
- RESOLVED** the USET SPF Board of Directors calls upon the state of Pennsylvania and federal agencies to reject permits for the treatment plant and the state of New York to oppose the treatment plant; and, be it further
- RESOLVED** the USET SPF Board of Directors calls upon federal agencies that could have jurisdiction over the treatment plant to consult with affected Tribal Nations on a government-to-government basis prior to taking any action; and, be it finally

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RESOLVED the USET SPF Board of Directors calls upon state and federal agencies to consult with Tribal Nations at risk of being impacted by commercial development to ensure state and federal regulatory action is not facilitating harmful contamination of sacred natural resources with a goal of achieving the consent of affected Tribal Nations prior to the approval of such actions.

CERTIFICATION

This resolution was duly passed at the USET SPF Impact Week Meeting, at which a quorum was present, in Arlington, VA, February 8, 2018.



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



Chief Lynn Malerba, Secretary
United South and Eastern Tribes
Sovereignty Protection Fund