



UNITED SOUTH AND EASTERN TRIBES, INC.

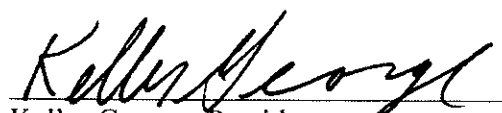
Resolution No. USET 2000:07

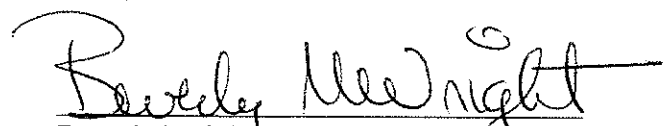
CLEAN WATER ACT AMENDMENTS TO PRESERVE TRIBAL SOVEREIGNTY

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprising twenty-three (23) 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 most important manifestation of sovereign power is the right to control and regulate Tribal natural resources and the right to dominion, control, and self-determination is meaningless if extra-territorial forces can presume to regulate Tribal natural resources ; and
- WHEREAS,** the Federal Indian Policy requires that the Federal Government seek corrections in federal statutory law that impair government to government relationships or otherwise fail to acknowledge Tribal sovereign power over Tribal natural resources; and
- WHEREAS,** the Federal Clean Water Act allows citizens to sue individuals or entities that violate the Clean Water Act in Federal Court: provided, however, that if Federal or State government has brought suit against the individual or entity, then the citizen suit can not go forward; and
- WHEREAS,** Indian Tribes are treated differently from the Federal and State governments in the Clean Water Act in that if a Tribe takes enforcement action against a violator in the exercise of its sovereign power, either through the Executive Branch of Government or the Tribal Courts, an interested citizen group can still sue the violator in Federal Court, fully ignoring the enforcement action of the Tribal Government; and
- WHEREAS,** this dramatic oversight in the law allows a Federal Judge to second guess sovereign decisions that have been made by Tribal officials on Tribal lands regarding sovereign Tribal natural resources which is an intolerable result and a violation of the Federal Indian Policy; therefore, be it
- RESOLVED** the USET Board of Directors demands that the Executive Branch of the United States Government must seek a change in the Clean Water Act so that the inherent Tribal Sovereignty shall not be diminished by a citizen suit filed in Federal Court whereby a Federal Judge could second guess sovereign decisions made by Tribes regarding natural resources on Tribal lands; be it further
- RESOLVED** that the Clean Water Act be amended as per the attached document.

CERTIFICATION

This resolution was duly passed at the USET Annual Board of Directors Meeting, at which a quorum was present in Verona, NY Thursday, October 28, 1999.


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


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

“Because there is strength in Unity”

PROPOSED CLEAN WATER ACT AMENDMENTS

The Clean Water Act Should Be Amended As Follows:

Section 1365(b) (1) (b) of the Act should provide:

No **[citizen suit]** action may be commenced - if the Administrator **State [or Tribe]** has commenced and is diligently prosecuting a civil or criminal action in a **court of the United States or a state [or a Tribe]** to require compliance with the standard, limitation or order, but in any such action in a court of the United States any citizen may intervene as a matter of right. **[Bracketed material added]**

Section 1319 (g), entitled "Administrative Penalties" should provide at section 1319(g)(6):

(A) Limitations on actions under other sections

Action taken by the Administrator or the Secretary, as the case may be, under this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this chapter, except that any violation -

(ii) with respect to which a **State [or Tribe]** has commenced and is diligently prosecuting an action under a **State [law or Tribal]** law comparable to the subsection, or,

(iii) for which the Administrator, Secretary, the **State [or the Tribe]** has issued a final order not subject to further judicial review and the violator has paid a penalty assessed under this subsection or **such comparable State law [or Tribal law]**, as the case may be, shall not be the subject of a civil penalty action under subsection (d) of the section or section 1321(b) of this title or section 1365 of this title.
[Bracketed material added]