



UNITED SOUTH AND EASTERN TRIBES, INC.

USET Resolution No. 2001:050

**OPPOSITION TO DELEGATION OF THE NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) AUTHORITY ON TRIBAL WATERS TO ANY
STATE, ABSENT TRIBAL CONCURRENCE**

- WHEREAS,** United South and Eastern Tribes Incorporated (USET) is an internal organization comprising 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 each member tribes' leadership; and
- WHEREAS,** a unique Trust Relationship exists between the U. S. Government and the federally recognized Tribes; and it is exercised through the U.S. Constitution, Treaties, Presidential Directives, and congressional declarations; and
- WHEREAS,** by virtue of being agents of the U.S. Government, all Federal agencies have a duty and obligation to carry out the U.S. Governments Trust Responsibilities; and
- WHEREAS,** the U.S. Government cannot delegate, transfer, or otherwise discharge its Trust Responsibilities regarding Tribal water issues such as, the National Pollution Discharge System (NPDES) in Indian waters, to any entity or state without the authorization of the federally recognized Tribe; and
- WHEREAS,** the U.S. Environmental Protection Agency (EPA) is considering an application from the State of Maine to assume full authority of EPA's NPDES program including Tribal waters; and
- WHEREAS,** the Maine Tribes (the Passamaquoddy Tribe at Pleasant Point, Passamaquoddy Tribe at Indian Township, Penobscot Nation, Houlton Band of Maliseet Indians, and the Aroostook Band of Micmacs) are all Federally Recognized Sovereign Governments; and
- WHEREAS,** this issue has national implications by setting a precedent of authorizing intrusion of State regulation of water quality in Indian Country and would be contrary to Tribal/Federal Government-to-Government relations, EPA Policy, Executive Orders and Trust Responsibilities; and
- WHEREAS,** the EPA consulted with the U.S. Department of Interior (DOI), the cognizant Federal Agency for Tribal Governments, and an Interior Solicitor's opinion was developed supporting the Tribes which was submitted to the EPA; and
- WHEREAS,** EPA has granted the State of Maine the authority it was seeking but did not grant such authority over Indian lands in Maine, and indicated that it needed to consult further with the Department of Justice and the Department of the Interior; and
- WHEREAS,** the State of Maine has failed to incorporate tribal concerns into the state decision making process; and
- WHEREAS,** the State of Maine has historically failed to recognize the Maine Tribes as Sovereign Nations and has failed to protect the Tribes natural resources or address Tribal cultural concerns; therefore, be it
- RESOLVED** the USET Board of Directors fully and actively supports the Maine Tribes opposition to the State of Maine application to the EPA assuming all authority and jurisdiction of their National Pollution Discharge System (NPDES) within the borders of the Tribal land, specifically where such delegation affects and impacts

“Because there is strength in Unity”

lands, water bodies, and other natural resources within the territories of their respective Tribes; and, be it further

RESOLVED the USET Board of Directors requests and strongly encourages the EPA, together with the Justice and Interior Departments, to recognize its Trust Responsibilities to the Maine Tribes and any other Federally Recognized Tribe, and not delegate NPDES authority to the State of Maine or any other State in any manner that includes lands, waters, and other Natural Resources within the territories of the Tribes; and, be it further

RESOLVED the USET Board of Directors direct the President and Executive Director to prepare a letter of support, position paper, or other document that conveys support of the Maine Tribes, and transmit said document to DOI, EPA, NCAI, President Bush, and the State and Federal Courts, as appropriate; and, be it further

RESOLVED the USET Board of Directors authorizes that the President and Executive Director are empowered to testify and file a friend of the court brief as needed and appropriate; and, be it further

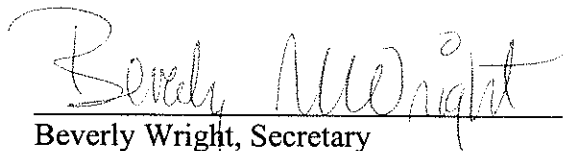
RESOLVED the USET Member Tribes actively stand in unity with the Maine Tribes in opposition to EPA delegation to the State of Maine of NPDES authority over tribal lands, waters, and resources, and by attending pending legal proceedings, writing letters of support, and attending future events organized by the Maine Tribes.

CERTIFICATION

This resolution was duly passed at the USET Impact Week Meeting, at which a quorum was present in Arlington, VA on Thursday, February 1, 2001.



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



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