

Native Village of [NAME], [STATE NAME or PROVINCE NAME]
Resolution No. _____ of 2020

A Resolution Authorizing the Native Village of [Town Name] to Request Federal, State, and Local Actions to Protect Health of Tribal First Responders and the Tribal Members During Oil-Chemical Disasters

WHEREAS, the Native Village of [VILLAGE NAME] is a federally recognized Native Tribe of the [NATION]; and

WHEREAS, the Native Village of [VILLAGE NAME] has a duty and an obligation to protect and promote the inherent rights, health and wellbeing, and serve the inhabitants of the Tribe; and

WHEREAS, the historical, cultural, traditional rights of fishing, hunting, gathering, bartering and navigational interests extend throughout the waters and oceans of [STATE or REGION/ NATION] that First Nation peoples navigate and extend from the lakes, creeks, and rivers to the inter-tidal zone to the seaward extent of the Exclusive Economic Zone (EEZ) of 200 miles out to sea and the cultural and traditional lands and family connections extends to [CROSS BORDER COUNTRIES; i.e., Russian and Canadian] families and communities; and

WHEREAS, imminent, irreparable threats exist to the cultural and traditional, historical and commercial interests from crude oil, unconventional crude oil (tar sands oil or fracked oil and gas), hazardous chemical dispersant products for conventional oil spill response, and hazardous diluent chemicals for blending with tar sands oil that are being transported through or near our communities, and proposals to increase the volume of these substances are currently being considered without adequate consideration for the risks to local communities; and

WHEREAS, the increased production, transportation and use of these products also translates to an increased risk to local communities from incidents such as fires, explosions and spills, with the potential to cause significant impacts to health and safety of tribal members, first responders and the environment, and requires the involvement of local governments to minimize the consequences to their communities; and

WHEREAS, the Oil Pollution Act of 1990 and amended Clean Water Act create a critical role for local governments and citizens in oil spill preparation and response planning as part of local emergency preparedness, which is [mandated under SARA Title III](#), the Emergency Planning and Community Right-to-Know Act of 1986 in Sections 301 and 303, and cross-referenced the National Oil and Hazardous Substances Pollution Contingency Plan (NCP or Plan), which is the nation's emergency response plan for oil spills, in Subpart C 300.200-300.215; and

WHEREAS, there is a need for Tribal governments to be actively involved in reviewing and revising the Oil Spill and Emergency Preparedness Plans every five years; researching and

implementing after incident assessments are released; monitoring environmental harm and recovery; developing area/ local plans; filling gaps and/ or updating area/ local plans; to have meaningful and significant input with agencies; as well as an opportunity to be involved in the investigation of emergency incidents; and

WHEREAS, the U.S. Environmental Protection Agency (EPA) has a nondiscretionary duty under the Clean Water Act to update and maintain the National Oil and Hazardous Substances Pollution Contingency Plan (NCP or Plan), but the EPA has not updated its plan since 1994, over a quarter century ago; and

WHEREAS, the Plan was last updated in 1994 to provide for preauthorization and open-ended use of toxic chemical dispersants during oil spill response; however, since then, scientific studies from the 2010 BP Deepwater Horizon oil disaster response found that unprecedented use of these dispersants has had significant adverse health impacts on first responders, coastal residents and sealife from bacteria and coral up to marine mammals like dolphins – in short, the studies show that oil and dispersants combined do more harm than good to both people and wildlife; and

WHEREAS, regional oil spill contingency Plans and area oil spill contingency plans are derived from the dangerously outdated National Contingency Plan, making all the contingency plans from national to local outdated and inadequate to protect our Tribal members from exposure to oil and chemical dispersants used in oil spill response; and

WHEREAS, the outdated national Plan focuses on conventional oil spills that tend to float on the water surface; it does not cover unconventional oil spills from heavy crude (tar sands oil) that tend to sink or fracked oil and gas that tend to explode, yet ever increasing volumes of unconventional oil and hazardous substances such as dispersants and diluents are transported through our reservations, villages and watersheds; and

WHEREAS despite their legal mandate and vital role in safeguarding their communities and identifying the local risks and consequences of potential incidents, local Tribal governments are often not sufficiently involved in risk assessment and response planning carried out by industry, project proponents and other tiers of government, and are not sufficiently resourced to participate in the risk assessment and planning process, let alone respond to the impacts of oil and chemical incidents on their communities; and

AND WHEREAS, Congress created the Oil Spill Liability Trust Fund in 1986 and authorized its use under the Oil Pollution Act of 1990 to fund government's preparation and response to oil spills, among other things, yet Tribal governments and Tribal Emergency Planning Committees have not been unable to access these funds.

NOW THEREFORE BE IT RESOLVED, that the Native Village of [VILLAGE NAME] calls on the U.S. EPA Administrator to update and finalize the National Contingency Plan without further delay,

based on the latest science and field-based evidence from actual use of dispersants during oil spill response; and

AND BE IT FURTHER RESOLVED, that the Native Village of [VILLAGE NAME] calls on the [STATE] Governor to revoke preauthorization of dispersant use during oil spill response until such time as such use may be reconsidered after the National, Regional, and Area/ Local Contingency Plans are updated, based on the twenty-first century science and actual field evidence; and

AND BE IT FURTHER RESOLVED, that the Native Village of [VILLAGE NAME] calls on regional and federal spill response managers to expand the scope of oil and hazardous substances risk assessment and response planning to include, as required by law, local/area plans that are designed by local Tribal governments and Tribal members; and

AND BE IT FURTHER RESOLVED, that the Native Village of [VILLAGE NAME] calls on the U.S. Congress to introduce additional mechanisms for annual funding through the Oil Spill Liability Trust Fund for the resources and locally-specific capacity building required to ensure that local Tribal governments and Tribal Emergency Planning Committees are in the best possible position to plan for and protect communities and the environment in the event of fires, explosions, spills and related incidents as a result of increasing transportation of oil and hazardous substances; and

AND BE IT FURTHER RESOLVED, that this resolution shall be the policy of the Native Village of [VILLAGE NAME] until it is withdrawn or modified by a subsequent resolution.

CERTIFICATION

We the undersigned officers and members of the Native Village of [VILLAGE NAME], hereby, certify that the Tribal Council, which is made up of _____ members, of whom _____ constitutes a quorum, were present at the meeting held _____, 2020; that this Resolution was passed by the affirmative vote of _____ members; and that this Resolution has not been rescinded or amended in any way.

Name, Secretary _____ Date _____

Name, President _____ Date _____

cc: [CONTACT NAME], U.S. EPA Administrator, Andrew Wheeler

[CONTACT NAME], [STATE] Governor

[CONTACT NAME], [CONGRESSIONAL DELEGATES OF STATE]

[CONTACT NAME], U.S. EPA *co-chair of Region [NUMBER X] Regional Response Team*

[CONTACT NAME], U.S. Coast Guard *co-chair of Region [NUMBER X] Regional Response Team*

[CONTACT NAME], Tribal Emergency Planning Committee, [CITY & STATE]