The National Congress of American Indians
Resolution #REN-13-077

TITLE: Urging the Bureau of Land Management to Consult and Engage in Collaborative Efforts with Indian Tribal Governments on the Hydraulic Fracturing on Federal and Indian Lands Proposed Rule

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, since January 2012, Indian tribes and tribal organizations have been actively involved in discussions with the U.S. Department of the Interior’s Bureau of Land Management on various iterations of a proposed federal rule regulating hydraulic fracturing activities on federal and Indian lands; and

WHEREAS, these Indian tribes and tribal organizations set forth various concerns about significant likely impacts of the proposed rules on tribal decision-making and tribal sovereignty, as well as imposing additional comparative disadvantage to oil and gas activities on Indian lands as compared to oil and gas activities on private and state lands;

WHEREAS, on May 24, 2013, the Bureau of Land Management issued its Revised Proposed Rule titled “Oil and Gas: Hydraulic Fracturing on federal and Indian Lands;” and

WHEREAS, the Revised Proposed Rule purports to apply a new federal rule to hydraulic fracturing activities on Indian lands and would treat Indian lands as if they are public lands;

WHEREAS, Indian tribes and tribal organizations have been actively involved in discussions on the Revised Proposed Rule and have requested constructive revisions, including the option of direct tribal regulation in lieu of Bureau of Land Management regulation of hydraulic fracturing on Indian lands; and

WHEREAS, these Indian tribes and tribal organizations continue to believe in the effectiveness and efficacy of existing hydraulic fracturing regulatory regimes.
NOW, THEREFORE BE IT RESOLVED, that NCAI believes that any federal hydraulic fracturing rule pursued by the Bureau of Land Management must: (1) affirm that Indian lands are not public lands as defined in the Federal Land Policy Management Act of 1976; (2) acknowledge the sovereign authority of Indian tribes to make decisions about activities occurring on their own lands; and (3) provide assistance, either directly or through contract, to interested Indian tribes in the development of tribal regulatory capacity and the development of tribal hydraulic fracturing regulations; and

BE IT FURTHER RESOLVED, that the proposed regulation’s provision on variances in subsection (k) should be amended to provide that tribal regulation and procedures may replace the federal regulations, provided that the tribal regulations are consistent with the objectives of the federal regulations; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Midyear Session of the National Congress of American Indians, held at the Atlantis Casino from June 24 - 27, 2013 in Reno, Nevada with a quorum present.

ATTEST:

President

Recording Secretary