The National Congress of American Indians
Resolution #MOH-17-015

TITLE: Protection of the Great Lakes and Support for the Menominee Indian Tribe of Wisconsin and Allies in Opposition to the Proposed Back Forty Mine Project

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, the NCAI is active in the preservation and protection of native sacred places across the nation; and

WHEREAS, the Menominee Indian Tribe of Wisconsin is a federally recognized Indian Tribe and member of the NCAI; and

WHEREAS, the mouth of the Menominee River is recognized as the place of origin of the Menominee People, and the Menominee River is historically, culturally and spiritually significant to the Menominee people due to the existence of former villages, burial sites, mound groups, funerary objects, raised agricultural fields, garden beds, places of worship and wildlife including Sturgeon which are central to the Menominee culture; and

WHEREAS, the Menominee River is located within the Menominee Indian Tribe of Wisconsin’s 1836 Treaty Area; and

WHEREAS, the Menominee Indian Tribe of Wisconsin’s religion, oral histories, traditions and ceremonial activities and practices are inseparable with the natural environment; and

WHEREAS, the Menominee River is the largest river system in the Upper Peninsula of Michigan and a major Lake Michigan tributary that forms the Wisconsin-Michigan border and flows into Green Bay; and
WHEREAS, the Great Lakes are a valuable water resource representing 20 percent of the World’s fresh surface water, 95 percent of the United States’ fresh surface water and 84 percent of North America’s fresh surface water; and

WHEREAS, the Great Lakes and its tributaries, including the Menominee River, are relied upon for clean water, treaty rights, religious practices, fishing, economic development, agriculture, and tourism; and

WHEREAS, Aquila Resources, Inc. (“Aquila”), a Canadian based exploratory company, is seeking approvals to mine gold, zinc, copper and silver in Lake Township, Michigan; and

WHEREAS, the proposed mining project known as the “Back Forty Mine Project” would consist of an open pit metallic sulfide mine within 50 yards of the Menominee River; and

WHEREAS, Aquila proposes to utilize open-pit mining extraction, removal and processing techniques which have historically caused detrimental impacts to the environment and surrounding areas, and will create great risks for all tribes who rely on the Great Lakes and treaty fishing rights; and

WHEREAS, the Michigan Department of Environmental Quality has approved three of the four permits required for the project and the fourth permit has been submitted for consideration; and

WHEREAS, States, with approval from the Environmental Protection Agency (EPA), may assume authority under the Clean Water Act (CWA) to administer the 404 permitting for discharge of dredged or fill material into certain “navigable waters;” and

WHEREAS, the State of Michigan is one of two states who have assumed authority to administer the 404 permit program in some but not all navigable waters in their State; and

WHEREAS, the State of Michigan and federal agencies have taken the position that the State of Michigan has assumed the authority to administer the proposed mine’s 404 discharge permit; and

WHEREAS, the federal agencies have taken the position that the 404 permit for the mine is not a federal action, therefore the federal laws such as the National Historic Preservation Act Section 106 consultation with the Tribes and National Environmental Policy Act do not apply; and

WHEREAS, Aquila’s proposed mine poses significant, detrimental and irreversible threats to the environment, water, wildlife, animals and places of historic, religious and cultural significance to the Menominee People; and

WHEREAS, the adverse impacts of the proposed mine would not be geographically limited to the State of Michigan, but would be felt by Tribal Nations, Wisconsin residents and other Great Lakes users; and

WHEREAS, the Menominee River is listed on the 2017 American River’s top ten most endangered rivers list due to the threat of the proposed Back Forty Mine; and
WHEREAS, the Menominee Indian Tribe of Wisconsin has initiated litigation over the proposed mine.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) does hereby support the efforts of the Menominee Indian Tribe of Wisconsin to stop the proposed Back Forty Mining Project, and the NCAI will use practicable efforts to assist the Tribe to achieve these objectives through media exposure, governmental relations, and to support a call for Congressional oversight hearings to highlight the trust, policy and statutory responsibilities of federal agencies in these matters; and

BE IT FURTHER RESOLVED, that NCAI calls upon the President and Congress to ensure that all agencies permitting projects or authorizations allowing states to assume permitting authority which affect tribal lands, waters or sacred places, demonstrate compliance with federal trust obligations, treaties, consultation requirements, the UN Declaration on the Rights of Indigenous Peoples and all other statutory responsibilities of federal agencies in these matters; 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 2017 Midyear Session of the National Congress of American Indians, held at the Mohegan Sun Convention Center, June 12 to June 15, 2017, with a quorum present.

Brian Cladoosby, President

ATTEST:

Aaron Payment, Recording Secretary