



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #PDX-11-075

### TITLE: Opposing the Elimination of Payments to Certified Indian Tribes and States' Abandoned Mine Land Programs

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#### NCAI HEADQUARTERS

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**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**, Congress amended Surface Mining Control and Reclamation Act (SMCRA) in 2006 ensuring that all certified Indian Tribes and States are mandated to continue receiving payments under the Abandoned Mine Lands (AML) program from fees collected from current and past coal production on their respective homelands; and

**WHEREAS**, the SMCRA amendments SMCRA ensure that the AML funding distribution process allowed certified Indian Tribes and States to receive their unallocated AML Trust Fund balance from the U.S. Treasury; and

**WHEREAS**, AML fees are collected from tribal trust resources (i.e. coal) and rightfully belong to the respective Indian Tribes and people; and

**WHEREAS**, the Obama Administration's *Economic Growth and Deficit Reduction* plan and its accompanying draft legislation proposes to eliminate payments to certified Indian Tribes and States Abandoned Mine Land (AML) programs; and

**WHEREAS**, the Administration's plan to eliminate these AML payments directly affects the Crow Tribe, the Hopi Tribe and the Navajo Nation; and

**WHEREAS**, to eliminate funds that will be collected on tribal coal resources and set aside is a direct abrogation of the Federal trust responsibility over the Indian tribal trust assets, and would constitute an illegal taking of the tribal resource income; and

**WHEREAS**, the Obama's Administration's proposal to eliminate AML payments to certified Indian Tribes does not constitute a "cost savings" or a reduction of the deficit; and

**WHEREAS**, through SMCRA, the AML programs of the Crow Tribe, the Hopi Tribe and the Navajo Nation have used thorough, innovative and cost effective measures to successfully address abandoned coal mines and mining related problems on tribal homelands; and

**WHEREAS**, each tribe achieved “certification” by reclaiming all eligible sites on their respective homelands and each continues to reclaim, monitor and maintain these sites; and

**WHEREAS**, this certification authorized the three tribes to address other SMCRA related problems as the law intended, including abandoned uranium and copper mines, which are a direct result of the Federal government’s efforts during the Cold War.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI opposes any proposal to eliminate AML payments to certified Indian Tribes and States; and

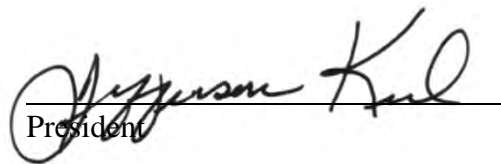
**BE IT FURTHER RESOLVED**, that the NCAI respectfully requests that Congress and the Joint Select Committee on Deficit Reduction support the continuation of AML payments to certified Indian Tribes and States; and

**BE IT FURTHER RESOLVED**, that NCAI calls for no changes to the funding distribution for Tribes and States as negotiated in the 2006 SMCRA reauthorization; 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 2011 Annual Session of the National Congress of American Indians, held at the Oregon Convention Center in Portland, Oregon on October 30 – November 4, 2011, with a quorum present.

  
President

**ATTEST:**

  
Recording Secretary