



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #MOH-04-018

### **TITLE: Opposing Bonneville Power Administration's Efforts to Reduce Summer Spill and Kill More Fish in the Columbia and Snake Rivers**

#### EXECUTIVE COMMITTEE

**PRESIDENT**  
**Tex G. Hall**  
*Mandan, Hidatsa, and Arikara Nation*

**FIRST VICE-PRESIDENT**  
**Joe A. Garcia**  
*Ohkay Owingeh*  
*(Pueblo of San Juan)*

**RECORDING SECRETARY**  
**Juana Majel**  
*Pauma-Yuima Band of Mission Indians*

**TREASURER**  
**W. Ron Allen**  
*Jamestown S'Klallam Tribe*

#### REGIONAL VICE-PRESIDENTS

**ALASKA**  
**Edward K. Thomas**  
*Tlingit and Haida Tribes*

**EASTERN OKLAHOMA**  
**Jefferson Keel**  
*Chickasaw Nation*

**GREAT PLAINS**  
**Harold Frazier**  
*Cheyenne River Sioux Tribe*

**MIDWEST**  
**Norman Adams, Jr.**  
*Bois Forte Band of Chippewa Indians*

**NORTHEAST**  
**Kevin Seneca**  
*Seneca Nation*

**NORTHWEST**  
**Ernie Stensgar**  
*Coeur d'Alene Tribe*

**PACIFIC**  
**Leslie Lohse**  
*Paskenta Band of Nomlaki Indians*

**ROCKY MOUNTAIN**  
**Geri Small**  
*Northern Cheyenne Tribe*

**SOUTHEAST**  
**Eddie Tullis**  
*Poarch Band of Creek Indians*

**SOUTHERN PLAINS**  
**Zach Pahmahmie**  
*Prairie Band Potawatomi Nation*

**SOUTHWEST**  
**John F. Gonzales**  
*San Ildefonso Pueblo*

**WESTERN**  
**Arlan Melendez**  
*Reno-Sparks Indian Colony*

**EXECUTIVE DIRECTOR**  
**Jacqueline Johnson**  
*Tlingit*

**NCAI HEADQUARTERS**  
1301 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20036  
202.466.7767  
202.466.7797 fax  
[www.ncai.org](http://www.ncai.org)

**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 time immemorial, our economy, culture, religion and way of life have centered around our fishing, hunting and gathering resources, and the lands and waters on which they depend, and yet their health and well-being have suffered greatly as a result of many harmful non-Indian activities and actions; and

**WHEREAS**, the loss and diminishment of many of these resources has in turn caused substantial harm to tribal people and communities and has impacted our inherent tribal sovereignty, which is based in part on the free exercise of our rights to fish, hunt and gather, and the United States has a duty, based on treaties, executive orders, the federal Trust Responsibility and numerous court opinions, to ensure that those rights are honored; and

**WHEREAS**, among these lost or damaged resources are various populations of salmon and other anadromous and resident fish and wildlife, a number of which have gone extinct or are currently listed under the federal Endangered Species Act (ESA); and

**WHEREAS**, a primary factor in harming fish populations has been the construction and operation of federal dams in the Columbia River system, which impact fish by killing, injuring and disorienting those that pass through dam turbines, extended-length screens, and bypass systems, and by detrimentally altering their essential river habitat; and

**WHEREAS**, the federal dams have also harmed native fish populations by creating reservoirs and affecting riverine systems in the upper portion of the Columbia River Basin that have often been managed in ways that negatively impact many treaty and trust resources, including cultural and natural resources; and

**WHEREAS**, the safest, most biologically sound way for fish to migrate past dams is by controlled spill, a point on which there is virtually unanimous scientific agreement and which is consistent with the well-established scientific principle that fish are best protected by operating dams to reflect and enhance natural river conditions as much as possible; and

**WHEREAS**, NOAA Fisheries' 2000 Biological Opinion for the federal dams, developed pursuant to the ESA, recognized the benefits of spill, requiring controlled spill, including spill during the summer, as a necessary measure for the dams to avoid jeopardy to ESA-listed fish; and

**WHEREAS**, the United States District Court for the District of Oregon ruled that the Biological Opinion and its measures, though helpful in some respects, were not sufficient to comply with the ESA and to ensure adequate protection for ESA-listed fish; and

**WHEREAS**, the Bonneville Power Administration (BPA) has again resisted spilling water to benefit fish by proposing to significantly curtail summer spill in 2004, stating that it is not "cost-efficient" and is unjustifiably "expensive," again inequitably attributing "foregone revenues" to fish recovery measures while consistently failing to note or address revenues foregone from water devoted to irrigation, navigation and other non-Indian economic activities; and

**WHEREAS**, BPA has proposed certain measures as "offsets" to "mitigate" for the effects of summer spill reduction, yet BPA's proposed "offsets" do not provide the same in-kind, in-place benefits as summer spill, and it remains uncertain where and when those benefits may accrue, if at all; and

**WHEREAS**, BPA has in the past failed to honor its commitments to "offsets" to "mitigate" for previous fish-killing actions, as in 2001 during BPA's financial "crisis" when summer spill was reduced at BPA's instigation and BPA failed to fully fund and implement appropriate mitigation measures,

**WHEREAS**, reduction or elimination of summer spill in 2004 might be used as a precedent for ending summer spill completely, over the long-term; and

**WHEREAS**, the loss of tens or hundreds of thousands of salmon will inevitably lead to the further erosion of tribal fishing rights and the ability to freely exercise them.

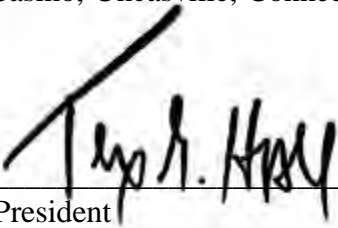
**NOW THEREFORE BE IT RESOLVED**, that NCAI opposes the elimination or reduction of summer spill at federal dams that benefits salmon and other fish, encourages the U.S. Army Corps of Engineers (USACE) to, at a minimum, maintain summer spill as called for in the Biological Opinion, and encourages BPA to withdraw or otherwise abandon its proposal to eliminate or reduce summer spill.

**THEREFORE BE IT RESOLVED**, that the NCAI supports management of the upper Basin reservoirs and rivers to avoid harmful impacts to treaty and trust resources, including cultural and natural resources, and that the BPA, USACE, and Bureau of Reclamation manage the Federal Columbia River Power System to implement the summer spill program while not impacting upper Basin reservoir levels and river flows that support those treaty and trust resources.

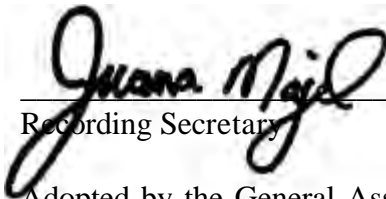
**THEREFORE BE IT FINALLY RESOLVED**, that NCAI will work with members of Congress and all interested regional parties to increase cost efficiencies in both the hydrosystem and in fish and wildlife protection and restoration activities, without jeopardizing the continued viability and integrity of either one.

#### CERTIFICATION

The foregoing resolution was adopted at the 2004 Mid-Year Session of the National Congress of American Indians, held at the Mohegan Sun Hotel and Casino, Uncasville, Connecticut, on June 23, 2004, with a quorum present.

  
\_\_\_\_\_  
President

#### ATTEST:

  
\_\_\_\_\_  
Recording Secretary

Adopted by the General Assembly during the 2004 Mid-Year Session of the National Congress of American Indians, held at the Mohegan Sun Hotel and Casino, in Uncasville, Connecticut, on June 23, 2004.