



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #PDX-20-018

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FOREST COUNTY POTAWATOMI COMMUNITY

NCAI HEADQUARTERS

1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

TITLE: Opposing Any Implementation of the EPA that Infringes on Tribal Environmental Regulatory Authority

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 and the United Nations Declaration on the Rights of Indigenous Peoples, 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, on July 22, Oklahoma Governor Stitt sent a letter to the Environmental Protection Agency (“EPA”) Administrator Andrew Wheeler, requesting state authority to administer all EPA programs in areas of the state that are in “Indian country,” with only a few, limited exceptions; and

WHEREAS, Tribal Nations in Oklahoma sent letters to EPA Administrator Wheeler, opposing Governor Stitt’s request and demanding that the EPA engage in good faith consultation with the 39 federally recognized Tribal Nations in Oklahoma before undertaking any final agency action; and

WHEREAS, no meaningful consultation took place between the Tribes in Oklahoma and the EPA, and on October 1, 2020, the EPA granted Governor Stitt’s request, granting federal regulatory authority on tribal lands to several state agencies, including the Oklahoma Department of Environmental Quality, Department of Agriculture, Food and Forestry, Water Resources Board and the Oklahoma Corporation Commission; and

WHEREAS, the EPA Administrator claims to have carried out his final agency action pursuant to authority vested in him in a two paragraph midnight rider stuffed into the Safe, Accountable, Flexible, Efficient Transportation Equity Act (“SAFETEA”) of 2005; and

WHEREAS, SAFETEA treats Oklahoma Tribes differently than other Tribes throughout the United States, and the EPA Administrator's October 1, 2020 final agency action was a swift move meant to circumvent the federal government's trust, duty and obligation to consult with the Tribal Nations concerned; and

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) opposes any implementation of the EPA that does not fully respect tribal sovereignty and jurisdiction and that infringes, in any way, on tribal environmental regulatory authority, as well as undermining treaty resource rights; and


BE IT FURTHER RESOLVED, that NCAI calls upon the EPA to reverse its October 1, 2020 decision to grant Governor Stitt's request, and instead engage in meaningful, good faith consultations with all 39 Tribal Nations in Oklahoma before taking any final agency action in response to Governor Stitt's July 22 request; and

BE IT FURTHER RESOLVED, that NCAI further calls on Congress to amend any legislation that provides for disparate treatment of tribal nations with respect to environmental regulatory authority, including the two paragraph midnight rider within SAFETEA, as it constitutes a clear violation of the federal government's trust duty and obligation to protect and preserve the sovereignty of Tribal Nations, as well as the health and welfare of their citizens.

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 2020 Annual Session of the National Congress of American Indians, held Nov 8, 2020 - Nov 13, 2020, with a quorum present.



Fawn Sharp, President

ATTEST:



Juana Majel Dixon, Recording Secretary