



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #TUL-13-043

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TITLE: Support for Removal by Congress and the President of Barriers to Full Control by Tribal Nations of the Development of Their Renewable and Non-renewable Energy Resources

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, many Tribal Nations within the United States have substantial energy resources, both renewable and non-renewable, that are of tremendous potential benefit to the Tribal Nations, the United States and to the world; and

WHEREAS, Tribal Nations are recognized by the Supreme Court, treaties, and the U.S. Constitution as separate sovereigns with the right to control what occurs within their boundaries; and

WHEREAS, unlike development of energy resources within the states, sovereign Tribal Nations are subject to further regulation by the federal government, and states, even within the boundaries of their respective reservations, and have additional roadblocks that prevent the Tribal Nations from having full control over the development and environmental regulation of energy resources within their boundaries; and

WHEREAS, those barriers include, but are not limited to the following:

1. The checkerboard and fractionated ownership of land and mineral acres within the reservations by the Tribal Nations, their citizens, and non-Indians, and the resulting jurisdictional maze created by such a checkerboard of ownership interests;
2. Additional regulatory barriers imposed by federal agencies, including the Bureau of Indian Affairs (BIA); Bureau of Land Management (BLM); Minerals Management Service (MMS); and the Environmental Protection Agency (EPA),

among other federal agencies, all of which claim a responsibility for regulating Tribal lands because such lands are considered “public lands” or are Indian “trust lands”, regulatory burdens that are not placed on the various states;

3. Supreme Court cases or cumbersome laws which impose additional tax or regulatory burdens on production of energy from Tribal lands and lands within the boundaries of Tribal Nations such as *Cotton Petroleum v. New Mexico*, 490 U.S. 163 (1989), which said states may impose taxes on wells producing oil from Tribal lands if the entity producing the oil is a non-tribal entity;
4. Distance from markets, oil and gas pipelines, and distance and access to transmission lines (in the case of renewable energy) that inhibits effective development of energy resources; and
5. Lack of explicit authority recognized by the federal government for Tribal Nations to both encourage and regulate energy development activities within their boundaries; and

WHEREAS, Tribal Nations have developed considerable expertise in all matters affecting energy development and their sovereign governments are very capable of both regulating energy development and encouraging its development, leading to more efficient use of their resources; a better return on investment for the Tribal Nations and industry partners; and most importantly, a better quality of life for all the citizens of the Tribal Nations; and

WHEREAS, in some specific areas of development of renewable energy, Tribal Nations have banded together to form consortia that can use the collective energy production of several Tribal Nations to more effectively market the energy produced and share the wealth of that production.

NOW THEREFORE BE IT RESOLVED, that the NCAI hereby urges the formation of an Inter-Tribal task force to develop specific legislative and regulatory solutions to propose to Congress and the President to remove each of the barriers to energy development that the Task Force might identify; and

BE IT FURTHER RESOLVED, that NCAI hereby urges Congress and its committees of jurisdiction to hold field hearings and oversight hearings so as to understand the barriers to effective energy development facing Tribal Nations and to assist the Tribal Nations to resolve these barriers; and

BE IT FURTHER RESOLVED, that NCAI hereby urges that the President of the United States establish an Energy Subcommittee of his recently formed White House Council on Native American Affairs that can assist in removing the barriers specified above; and

BE IT FURTHER RESOLVED, that NCAI hereby urges that the President convene a Tribal energy summit that will bring together energy producing Tribal Nations to work together to enhance Tribal sovereignty in every aspect of energy development, both renewable and non-renewable; and to strengthen Tribal practices and standards for energy development and regulation; and

BE IT FURTHER RESOLVED, that NCAI supports coalitions of Tribal Nations that have begun to occur to more effectively develop both renewable and non-renewable energy resources that are so important to the United States; and

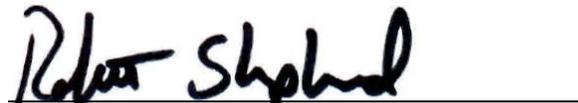
BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2013 Annual Session of the National Congress of American Indians, held at the Cox Business Center from October 13 - 18, 2013 in Tulsa, Oklahoma with a quorum present.


President

ATTEST:


Recording Secretary