



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #DEN-07-066

TITLE: Oppose Environmental Protection Agency's Proposed Rule on Prevention of Significant Deterioration New Source Review

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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, the Environmental Protection Agency (EPA) is authorized by Congress to implement the federal Clean Air Act (42 U.S.C. § 7401 et seq.); and

WHEREAS, the federal Clean Air Act governs and protects air quality throughout the United States and, for lands attaining the National Ambient Air Quality Standards, requires that air pollution emissions from new sources and modifications of existing sources not exceed specific increments; and

WHEREAS, the Clean Air Act provides three levels of increments for each pollutant: Class I, which is the most stringent; Class II, which is what most of the United States was initially designated by the Clean Air Act; and Class III, which is the least stringent; and

WHEREAS, the Clean Air Act requires that air pollution emissions from new sources and modifications of existing sources not adversely impact Air Quality Related Values (such as visibility or a scenic, cultural, physical, biological, ecological or recreational resource) in areas designated as Class I; and

WHEREAS, Clean Air Act Section 164 (42 U.S.C. § 7474) affords states and tribes the right to request that EPA redesignate lands under their control; and several tribes have made such requests, and in all cases, these requests have been to redesignate from Class II to Class I; and redesignation under Class I assists tribes in protecting both air quality and Air Quality Related Values over and on their reservations; and this protection of air quality and Air Quality Related Values helps tribes to safeguard their cultural and historic resources; and

WHEREAS, the EPA proposed rule on Prevention of Significant Deterioration New Source Review: Refinement of Increment Modeling Procedures would weaken the ability of

tribal authorities to protect air quality in tribal lands designated Class I and may allow degradation of air quality to levels allowed in Class II areas notwithstanding Class I designation; and

WHEREAS, the EPA proposed rule would also change the procedures for calculating the impacts of new and modified pollution sources on air quality in Class I areas, so that the procedures are less stringent than currently required; and

WHEREAS, the EPA proposed rule would result in a longer and more burdensome process for permitting new sources for both governmental entities and permit applicants; and

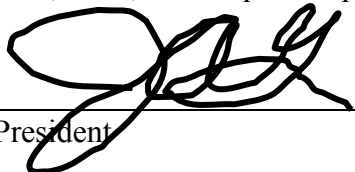
WHEREAS, the EPA has failed to conduct sufficient outreach and consultation with tribes regarding the proposed rule, has acted inconsistently with the government-to-government relationship between the tribes and the federal government, and has failed to comply with Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), by, among other things, failing to consult with tribes that have requested or have Class I designation regarding the proposed rule until after the initial due date for comments on the proposed rule and failing to conduct proper outreach and consultation with tribes not currently holding Class I area status.

NOW THEREFORE BE IT RESOLVED, that the NCAI respectfully calls upon the EPA to (1) amend and reissue the proposed rule on Prevention of Significant Deterioration New Source Review: Refinement of Increment Modeling Procedures so that (a) implementation of this proposed rule will not in any way weaken the ability of tribal authorities to protect air quality over tribal lands now or later designated Class I and will not allow degradation of air quality to levels in tribal Class I areas below Class I levels and (b) the procedures for calculating the impacts of new and modified pollution sources on air quality in Class I areas are as or more stringent than currently required; and (2) stay promulgation of the amended proposed rule until EPA has completed full and proper consultation with all interested tribes; and

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

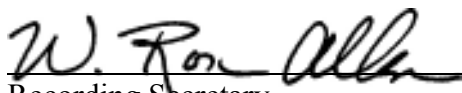
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2007 Annual Session of the National Congress of American Indians, held at the Hyatt Regency Denver at the Colorado Convention Center in Denver, Colorado on November 11-16, 2007, with a quorum present.



President

ATTEST:



Recording Secretary