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THE NATIONAL CONGRESS OF AMERICAN INDIANS

RESOLUTION #SD-02-010

Title: Opposing Delegation of the National Pollution Discharge Elimination System (NPDES) Authority on Tribal Waters to the State of Maine

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 and their way of life, 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, a unique Trust Relationship exists between the United States Government and the federally recognized Tribes as established in the U.S. Constitution, Treaties, Presidential Directives, and Congressional Declarations; and

WHEREAS, the U.S. Environmental Protection Agency (EPA) is considering an application from the State of Maine to assume full authority NPDES that includes Tribal Waters; and

WHEREAS, the Passamaquoddy Tribe at Pleasant Point, Passamaquoddy Tribe at Indian Township, Penobscot Nation, Houlton Band of Maliseet Indians, and the Aroostook Band of Mic Macs are all federally recognized sovereign governments; and

WHEREAS, the federally recognized Tribes retain all sovereign authority not expressly removed by Congress; and

WHEREAS, the Federally recognized Tribes can exercise Sovereign Authority over their lands and natural resources unless congress specifically acts to prevent the exercise of that authority; and

WHEREAS, the Federal laws pertaining to Maine Tribes do not prevent these Tribes from exercising control over water quality on their lands; and

WHEREAS, a delegation or grant of Authority to the State of Maine to operate the Clean Water Act NPDES program over Tribal Lands without the consent of the Maine Tribes is a violation of federal Indian Law, MICSA (Maine Indian Claims Settlement Act), and the Mic Mac Settlement Act; and

WHEREAS, the Department of Interior is designated by Congress to be the lead Federal Agency responsible for protecting and preserving the Sovereign Rights of Federal Recognized Tribes; and

WHEREAS, the Environmental Protection Agency regulations direct states to consult with Department of Interior regarding State/Tribal Jurisdiction; and

WHEREAS, the Environmental Protection Agency has not been granted authority by congress to diminish Tribal Jurisdiction; and

WHEREAS, the Maine Tribes are members in good standing, of the National Congress of American Indians (NCAI); and

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby request and encourage the Environmental Protection Agency retain authority over the Clean Water Act NPDES program for Tribal lands in the State of Maine; and

BE IT FURTHER RESOLVED, that the NCAI requests and encourages the Environmental Protection Agency to accept and rely upon Department of Interior determinations regarding Tribal Jurisdiction and Trust Matters; and

BE IT FURTHER RESOLVED, that the NCAI strongly encourages the Environmental Protection Agency to carefully consider and recognize their Trust and Fiduciary responsibilities to the Maine tribes in making a decision on the State of Maine's Clean Water Act NPDES Application; and

BE IT FURTHER RESOLVED, that the NCAI requests the Environmental Protection Agency Administrator Christine Todd-Whitman participate directly in the decision

regarding the State of Maine Application to operate the Clean Water Act NPDES program;
and

BE IT FURTHER RESOLVED, that the NCAI further encourages Environmental Protection Agency Administrator Christine Todd-Whitman to consult directly and personally with the Maine Tribes on a Government level regarding their NPDES struggles with the State of Maine; and


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

CERTIFICATION

The foregoing resolution was adopted at the 2002 Annual Session of the National Congress of American Indians, held at the Town and Country Convention Center, in San Diego, California on November 10-15, 2002 with a quorum present.


Tex Hall, President

ATTEST:


Juana Majel, Recording Secretary

Adopted by the General Assembly during the 2002 Annual Session of the National Congress of American Indians, held at the Town and Country Convention Center, in San Diego, California on November 10-15, 2002.