



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #SD-15-009

### **TITLE: Oppose Proposed Amendments to the Hydropower Provisions of the Federal Power Act**

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#### NCAI HEADQUARTERS

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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**, Indian tribes are sovereigns that pre-date the United States, with prior protected rights to self-government and to our American Indian and Alaska Native lands; and

**WHEREAS**, the conservation and preservation of tribal land and resources is a priority for all tribes and a critical component of the federal trust responsibility; and

**WHEREAS**, fish are a sacred resource for many tribes; and

**WHEREAS**, the production of electricity through hydropower dams includes impacts to water quality, waterways, wildlife, recreation, livelihoods, customary and traditional activities, and treaty resources within and outside American Indian and Alaska Native lands; and

**WHEREAS**, the impacts of hydropower projects located on federal lands often extend far beyond the confines of the specific lands on which the projects are sited to Indian lands and tribal resources; and

**WHEREAS**, currently proposed amendments to the Federal Power Act would: (a) weaken the current protections Indian tribes have through the Mandatory Conditions requirements under Section 4(e) of that Act; (b) overturn the watershed case of *City of Tacoma, Washington v. F.E.R.C.*, 460 F.3d 53 (D.C. Cir. 2006), which affirmed the authority of federal agencies to address the impacts of water diversion taking place off reservation lands after decades of hard-fought litigation; (c) roll back efforts to restore fish populations through the requirement of fishways; and (d) unnecessarily limit the available time and scientific information available to federal agencies in deciding what Mandatory Conditions should be included with a license; and

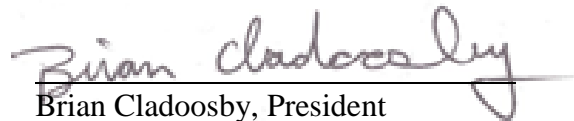
**WHEREAS**, the currently proposed amendments to the Federal Power Act would not improve the federal hydropower licensing process or weaken critical protections for tribal lands and resources.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) opposes changes to the hydropower section of the Federal Power Act that: (a) weaken the current protections Indian tribes have through the Mandatory Conditions requirements under Section 4(e) of that Act; (b) overturn the watershed case of *City of Tacoma, Washington v. F.E.R.C.*, 460 F.3d 53 (D.C. Cir. 2006), which affirmed the authority of federal agencies to address the impacts of water diversion taking place off reservation lands after decades of hard-fought litigation; (c) roll back efforts to restore fish populations through the requirement of fishways; and (d) unnecessarily limit the available time and scientific information available to federal agencies in deciding what Mandatory Conditions should be included with a license; 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 2015 Annual Session of the National Congress of American Indians, held at the Town and Country Resort, San Diego, CA, October 18-23, 2015, with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary