



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #TUL-05-063

### **TITLE: Opposition to the Exclusion of Alaska's Tribes from H.R. 3284, the Threatened and Endangered Species Recovery Act of 2005 (TESRA)**

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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**, on September 19, 2005, United States House of Representatives House Resources Committee Chairman Pombo introduced H.R. 3284, the Threatened and Endangered Species Recovery Act of 2005 (TESRA); and

**WHEREAS**, the House Resources Committee approved TESRA on September 22, 2005 and the House of Representatives passed TESRA on September 29, 2005; and

**WHEREAS**, the TESRA substantially amends the Endangered Species Act (ESA); and

**WHEREAS**, Section 9 of the TESRA, entitled Recovery Plans and Land Acquisitions, requires that Tribes be consulted regarding recovery plans, and provides that Tribes may assist in the in the preparation and/or implementation of management plans; and

**WHEREAS**, Section 9, subsection (h)(2)(B) of the TESRA contains a definition of "Indian Tribe" that includes "with respect to Alaska, the Metlakatla Indian Community" only; and

**WHEREAS**, Section 10 of the TESRA, entitled Cooperation with States and Indian Tribes, provides that Tribes may enter into cooperative agreements with the Fish and Wildlife Service (FWS) for the conservation of species "in substantially the same manner" as states; and

**WHEREAS**, Section 10, subsection (c)(5)(B)(ii) of the TESRA also contains a definition of “Indian Tribe” that with respect to Alaska includes only the Metlakatla Indian Community in Alaska; and

**WHEREAS**, there are 233 federally recognized Tribes in Alaska, each with the same status, rights and authorities under the law as all other Tribes in the United States and they are not in any way distinct or different as a matter of law from any other Tribe; and

**WHEREAS**, the TESRA specifically singles out and excludes from application Alaska’s Tribes and only Alaska’s Tribes; and

**WHEREAS**, it is wholly improper and unnecessary to specifically exclude only Alaska’s Tribes from the application of the TESRA; and such wholesale exclusion of half the Tribes in the United States, and the act of singling out Alaska’s Tribes sets a dangerous precedent for other legislation.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI does hereby oppose the definition of “Indian Tribe” in Sections 9 and 10 of the TESRA.

**BE IT FURTHER RESOLVED**, that the NCAI will actively lobby against these two provisions and in favor of a definition of “Indian Tribe” that includes *all* Tribes in the United States, including all of the federally recognized Tribes in Alaska.

**BE IT FURTHER RESOLVED**, that the NCAI does hereby oppose the singling out and exclusion of Alaska’s Tribes from the definition of “Indian Tribe” in *any* bill that generally applies to Tribes as there is no legal basis on which to exclude them.

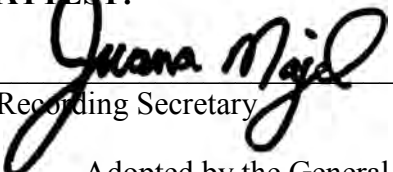
**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

### CERTIFICATION

The foregoing resolution was adopted at the 2005 Annual Session of the National Congress of American Indians, held at the 62<sup>nd</sup> Annual Convention in Tulsa, Oklahoma on November 4, 2005 with a quorum present.

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

Adopted by the General Assembly during the 2005 Annual Session of the National Congress of American Indians held from October 30, 2005 to November 4, 2005 at the Convention Center in Tulsa, Oklahoma.