



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ATL-14-31

### **TITLE: Supporting EPA Promulgation of Surface Water Quality Standards for States that Fail to Adopt Standards that Adequately Protect Tribal People Who Practice Subsistence Lifeways**

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**NCAI HEADQUARTERS**  
1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
[www.ncai.org](http://www.ncai.org)

**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**, since time immemorial we, the first people of North America, have sought to preserve, protect and sustain our way of life, our religion and our culture, beginning with the basis of all life—the pure water that we hold sacred—and we are obligated to take appropriate and necessary actions to care for the water, today and for the next seven generations; and

**WHEREAS**, under the federal Clean Water Act, states must periodically revise their surface water quality standards to incorporate more current and accurate data and information, and ultimately to better protect waterways from toxic and other pollutants; and

**WHEREAS**, these processes to revise standards include opportunities to make certain policy choices and decisions, such as acceptable risk of additional cancers from exposure to toxic discharges; and

**WHEREAS**, Oregon has adopted the nation's most stringent state water quality standards utilizing human health criteria based on local tribal subsistence-based fish consumption rates (a compromise of 175 grams per day) while maintaining the widely-accepted, commonly-used cancer risk level of 1 in 1,000,000; and

**WHEREAS**, States such as Washington and Florida have proposed to revise their water quality standards based on *weakened* cancer risk levels to counter and effectively negate the use of local subsistence-based fish consumption rates; and

**WHEREAS**, EPA guidance (2000 Methodology for Deriving Ambient Water Quality Criteria) suggesting that states may use a cancer risk level of as low as 1 in 10,000 for highly exposed subgroups including subsistence fishers, while recommending that the general population be protected at a cancer risk level of 1 in 1,000,000 is inappropriate and unacceptable; and

**WHEREAS**, states that rely on flawed EPA guidance to justify inadequate revised standards will perpetuate an ongoing environmental *in*justice by subjecting tribal people to disproportionately higher risks simply from exercising our rights to our First Foods and practicing our religion and culture.

**NOW THEREFORE BE IT RESOLVED**, that NCAI requests that the U.S. Environmental Protection Agency uphold its commitments to tribes, and promulgate surface water quality standards that will protect human health, safeguard tribal and treaty rights to harvest clean, consumable fish and other aquatic resources, and promote Environmental Justice for tribal communities in states that fail or refuse to adopt such standards (as may occur in the states of Washington, Florida, and possibly other); and

**BE IT FURTHER RESOLVED**, that NCAI opposes and rejects any state's policy choice for revising surface water quality standards that would use a risk level that is 10 or 100 times less protective against cancer than current criteria, and urges EPA to oppose and reject it as well; and

**BE IT FURTHER RESOLVED**, that NCAI requests that EPA reconsider, amend, or withdraw its insupportable guidance that may be referred to as an excuse by states to establish water quality standards that subject tribal people to unfair and disproportionate risks merely from practicing subsistence lifeways; and

**BE IT FURTHER RESOLVED**, that NCAI encourages EPA, in responding to states' proposed water quality standards revisions, to give paramount weight to its obligations to honor Treaty Rights, Reserved Rights, and Trust Responsibility to non-toxic fish and implement its Environmental Justice Policy; and

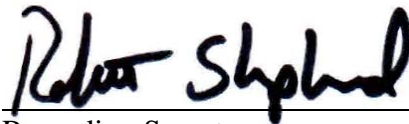
**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2014 Annual Session of the National Congress of American Indians, held at the Hyatt Regency Atlanta, October 26-31, 2014 in Atlanta, Georgia, with a quorum present.

  
President

**ATTEST:**

  
Recording Secretary