



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ECWS-18-004

TITLE: Support for Native Nations' Efforts to Protect their Natural Resources Against Contaminants and Opposition to the Proposed Epiphany Allegheny Treatment Plant

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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 and the United Nations Declaration on the Rights of Indigenous Peoples, 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, NCAI is active in the preservation and protection of native sacred places across the nation; and

WHEREAS, Native Nations are independent sovereign nations that pre-date the United States; and

WHEREAS, a unique government-to-government relationship exists between Native Nations and the federal government, supported by the United States Constitution, numerous treaties, statutes, federal court case law, regulations, and executive orders; and

WHEREAS, this unique relationship incorporates trust responsibilities of the federal government to federally recognized Native Nations, which also includes a fundamental priority for the protection of Native lands, water, and natural resources; and

WHEREAS, natural resources such as Native plants, trees, fish and wildlife, water and air, are critical in supporting Native Nations' long-term survival and the health and safety of their people, and play an important role in customs and traditions; and

WHEREAS, the lands and natural resources of Native Nations can be put at risk by actions taken off their lands; and

WHEREAS, the federal and state governments often have environmental regulatory authority over development projects that have harmful environmental impacts on Native Nations' natural resources, and must take these harms into account in their decision-making; and

WHEREAS, the Pennsylvania Department of Environmental Protection ("PADEP") is considering a proposal by Epiphany Allegheny LLC ("Epiphany"), to develop a Produced Water Treatment Plant in Eulalia Township, Pennsylvania with the capacity to discharge 42,000 gallons per day of treated oil and gas wastewater (or brine) into the Allegheny River, approximately 65 miles upstream of the Seneca Nation's Allegany Territory; and

WHEREAS, a decision by PADEP to approve project permits could result in the discharge of highly-contaminated wastewater into the Allegheny River upstream from the Seneca Nation's lands and waters without meaningful consultation with the Seneca Nation; and

WHEREAS, discharges entering the Seneca Nation territories will be the result of a process that Epiphany has never used in a full-scale facility to treat fracking waste water; and

WHEREAS, the Epiphany project will store untreated waste in the Allegheny River floodplain, putting the Seneca Nation at risk of being exposed to radiation-contaminated water in the event of a large-scale flood or accident; and

WHEREAS, the Seneca Nation has suffered injustices through the taking of much of its extensive land base and water through numerous treaties, as well as encroachment of its lands by non-Seneca settlers and entities; and

WHEREAS, in the past, the United States exercised eminent domain and constructed the Kinzua Dam on the Allegheny River to create the Allegheny Reservoir, without the consent of the Seneca Nation, which resulted in the loss of 10,000 acres of the Nation's Allegany Territory and devastating displacement and relocation of hundreds of Seneca citizens; and

WHEREAS, the Allegheny River is sacred and critical to the subsistence of the Seneca people and the Allegheny Reservoir is also used by the surrounding communities; and

WHEREAS, the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Pennsylvania Fish and Boat Commission, New York State Department of Environmental Conservation, environmental organizations, and individuals have submitted comments to the PADEP expressing concerns about the project and potential impacts on the Allegheny River, Reservoir, and local communities; and

WHEREAS, the Seneca Nation strongly opposes the issuance of any permit that may allow contaminated water to flow onto Seneca lands and put at risk, the Seneca people, lands, waters, and natural resources.

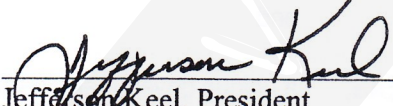
NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians does hereby support the Seneca Nation in its efforts to protect its lands, natural resources, and sovereign rights to oppose actions such as issuing the Epiphany permits, to protect the Seneca people from contamination that put their health, lands, waters, and natural resources at risk; and

BE IT FURTHER RESOLVED, that the National Congress of American Indians calls upon the President and Congress to ensure that all agencies with permitting or approval authority, or jurisdiction, over such projects that affect lands, waters, or sacred places, demonstrate compliance with federal trust obligations, treaties, consultation requirements, the United Nations Declaration on the Rights of Indigenous Peoples, and all other statutory responsibilities of federal agencies in these matters to ensure that federal action is not facilitating harmful contamination of sacred natural resources; 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 Executive Committee at the 2018 Executive Council Winter Session of the National Congress of American Indians, held in Washington, D.C.


Jefferson Keel, President

ATTEST:


Juana Majel Dixon, Recording Secretary