



2016 Annual Convention Tulalip, Washington

RESOLUTION #16 - 53

“REAFFIRM ACTIONS TO CALL ON THE STATE OF IDAHO TO IMPROVE THEIR WATER QUALITY STANDARDS”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest 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 rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

WHEREAS, Idaho is one of five states not authorized by the EPA to administer the National Pollutant Discharge Elimination System (NPDES) permit system under the Clean Water Act and as a result of federal permitting backlogs, many NPDES permits have expired; and

WHEREAS, an Idaho Department of Environmental Quality (DEQ) (IDEQ) study in 2008 indicates 36% of Idaho streams required Total Maximum Daily Load (TMDLs) for failing to meet water quality standards; and

WHEREAS, IDEQ's last survey in 2008 found that Idaho had 1,392 impaired waters with 2,243 causes, the most common of which are temperature, sediment, nutrients, and pathogens; and

WHEREAS, despite these designations, implementation and enforcement has been spotty at best, allegedly due to funding issues and Idaho's lack of NPDES primacy; and

WHEREAS, Idaho and the Environmental Protection Agency (EPA) have a legal responsibility to ensure that impaired waters are dealt with in a timely manner, and EPA has a trust responsibility to Pacific Northwest Tribes to ensure that these legal obligations are met; and

WHEREAS, the EPA provided comments at the Idaho Department of Environmental Quality public hearing on the proposed rule regarding water quality and Human Health Criteria, specifically fish consumption; and

WHEREAS, the State of Idaho began a new rulemaking process under the Clean Water Act based on litigation from their previous attempt to institute rules to govern accumulations of contaminants in fish throughout the State; and

WHEREAS, the State of Idaho determined that the fish consumption rate would be based on the lowest median consumers from the Idaho tribes (66 grams per day, higher than their initial proposal) but with a higher risk for health related impacts from high fish consumption than previously proposed; and

WHEREAS, the EPA has determined that the proposed criteria would not be protective of Idaho's tribes, particularly the highest end consumers, and have voiced this concern at a recent technical consultation meeting in Boise with the five Idaho tribes, and, EPA remains concerned with Idaho DEQ's approach to calculating its fish consumption rate; and

WHEREAS, the proposed remedy is to deny Idaho's Human Health Criteria submittal based on the fact that this will not be protective enough for the tribal communities because Tribes have subsistence rights reserved by treaty and trust responsibilities to harvest fish from Idaho's waters; and

WHEREAS, in determining whether Water Quality Standards comply with the Clean Water Act and EPA's regulations, it is necessary to consider other applicable laws, including federal treaties and trust responsibilities; and

WHEREAS, in Idaho, certain tribes hold reserved rights and the federal government has a treaty and trust responsibility to protect the take of fish for subsistence purposes, including treaty-reserved rights to fish at all usual and accustomed fishing grounds and stations and in unoccupied lands of the United States; and

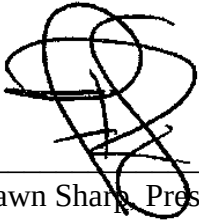
WHEREAS, such rights appropriately must be considered when determining which criteria are necessary to adequately protect Idaho's waters used for consumption of fish; now

THEREFORE BE IT RESOLVED, in order to protect the treaty and trust reserved rights to continue culturally important fishing practices, the State of Idaho must adopt criteria that will protect the tribal population exercising the subsistence fishing use; and

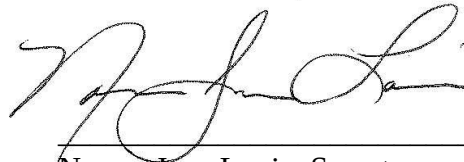
BE IT FINALLY RESOLVED, that ATNI urges the State of Idaho to adopt Human Health Criteria to protect tribal treaty and trust rights and tribal health and fully support EPA, as a federal trustee of the Tribes, to demand and enforce strong water quality standards which meet their treaty and trust obligations to Tribes and fully protect the health of tribal and non-tribal communities.

CERTIFICATION

The foregoing resolution was adopted at the 2016 Annual Convention of the Affiliated Tribes of Northwest Indians, held at Tulalip Resort Casino, Tulalip, Washington on September 26–29, with a quorum present.



Fawn Sharp, President



Norma Jean Louie, Secretary