



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ABQ-10-034

### **TITLE: Objection to the Department of Interior's Release of Tribal Revenue Allocation Plans in Response to Freedom of Information Act Requests**

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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**, the Indian Gaming Regulatory Act (IGRA) authorized tribal nations to engage in Indian gaming that has helped foster tribal economic independence and create jobs for Native Americans; and

**WHEREAS**, the Indian Gaming Regulatory Act requires tribal nations that desire to provide per capita payments to their members to submit a Revenue Allocation Plan (RAP) to the Department of the Interior (DOI) and obtain approval of the plan from DOI; and

**WHEREAS**, Tribes are sovereign nations and their business are private Tribal businesses, not publicly traded companies with public disclosure requirements; and

**WHEREAS**, the submission of RAPs to the DOI is simply a codification of the federal trust responsibility to Tribal governments and Tribal members; and

**WHEREAS**, the DOI has recently publicly released all of the RAPs in its possession in response to request pursuant to the Freedom of Information Act (FOIA); and

**WHEREAS**, IGRA recognized the sensitive and confidential nature of the financial information outlined in the statute, and built in additional FOIA protections for information obtained through IGRA; and

**WHEREAS**, these disclosures were made without providing Tribes the opportunity to propose redactions to their RAP plans as required under the DOI's own current FOIA regulations; and

**WHEREAS**, upon discovery of the release, the DOI has denied subsequent requests from tribes to redact confidential information from the RAPs prior to any future release of such plans; and

**WHEREAS**, the DOI has denied tribal requests to cease from any further release of their RAP plans; and

**WHEREAS**, the release of the plans will cause substantial competitive harm to Tribes by disclosing highly sensitive, proprietary and information about the Tribes' confidential commercial finances and economic development plans; and

**WHEREAS**, the disclosure of the RAPs violates the privacy of individual Tribal members, and jeopardizes the safety of tribal members; and

**WHEREAS**, the release of the RAPs violated the legislative intent of IGRA and DOI's trust responsibility to protect Tribes and tribal members and to encourage their economic success.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI requests that the Department of the Interior formally declare that all Revenue Allocation Plans obtained pursuant to IGRA contain confidential commercial information which is prohibited from public disclosure; and

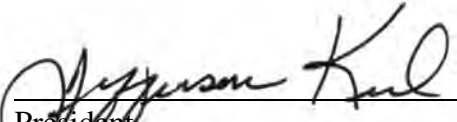
**BE IT FURTHER RESOLVED**, that the Department of the Interior cease from any additional public disclosure of any tribal Revenue Allocation Plans, through FOIA, the DOI website, or other means, until after a comprehensive consultation with Tribal leaders has occurred; and

**BE IT FURTHER RESOLVED**, that the Department of the Interior find that the RAPs were recently released in violation of their own current FOIA policy (that requires Tribes be offered an opportunity to redact), and will recall the recently released FOIA response; and

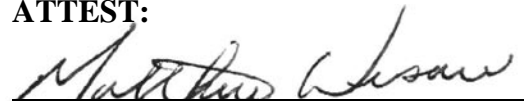
**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2010 Annual Convention of the National Congress of American Indians, held at the Albuquerque Convention Center in Albuquerque, NM on November 14-19, 2010, with a quorum present.

  
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President

**ATTEST:**

  
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Recording Secretary