



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ECWS-17-001

TITLE: Reaffirmation of the Federal Trust Responsibility to Preserve and Restore the Tribal Land Base and Promote Economic Development

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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, since its founding, NCAI has promoted the policy of tribal self-determination, while opposing initiatives that threatened it; and

WHEREAS, politicians and businessmen have recently put forth “privatization proposals” which seek to transfer certain tribal trust resources, particularly oil and gas, into private ownership, and, if privatized, the federal government would no longer have a trust responsibility in overseeing these lands and resources; and

WHEREAS, Indian Tribes experienced the Allotment Era and Termination Era which developed paternalistic policies and assimilationist ideas that ignored Indian property rights and self-determination; and

WHEREAS, H.R. 622, recently introduced by Congressman Chaffetz, seeks to terminate hundreds of Forest Service and Bureau of Land Management law enforcement officials, and replace them with state law enforcement; and

WHEREAS, state officers lack the specialized training necessary to properly enforce federal laws and regulations that protect sites of archeological, cultural, and spiritual importance to Tribes; and

WHEREAS, state officers, who do not have a trust responsibility to Tribes, would replace federal officials on federal lands within Indian Country to the detriment of Tribes who depend on federal law enforcement officials operating within Indian Country under the heightened standard of the trust responsibility; and

WHEREAS, H.R. 5780, introduced by Congressman Bishop last year, sought to transfer over 100,000 acres of the Ute Indian Tribe's land and minerals within the Uncompahgre Reservation as part of a proposed land exchange between the Bureau of Land Management (BLM) and the State of Utah when this land should instead be restored to Indian trust status; and

WHEREAS, North Dakota State Legislature representatives introduced HCR 3017 earlier this year, though later withdrawn, which attempts to "modify the Indian reservation system by vesting the states with the ability to engage in relations with Native American Tribes and with the responsibility of developing plans to improve the failed Indian reservation system, advance and elevate the quality of life on Indian reservations, promote and increase literacy on Indian reservations, and help Indian reservations to achieve economic stability and independence;" and

WHEREAS, the U.S. Army Corps of Engineers, under the guidance of President Trump, approved an easement to build the Dakota Access Pipeline underneath Lake Oahe, ND when construction of the pipeline could destroy tribal cultural properties, and operation of the pipeline presents the risk of an oil spill; and

WHEREAS, the above proposals and actions by state and federal legislators and officials as well as private parties, undermine tribal sovereignty, the policy of self-determination, and the government to government relationship between the United States and Tribes; and

WHEREAS, the economic hardships in Indian Country are caused not by the original design of the "reservation system" but rather the failure of the federal government to uphold its trust obligations, namely:

1. From the 1830's through the 1870's, Indian Nations were forced to leave valuable and productive lands for diminished reservations in arid regions;
2. From the 1880's to the 1920's took an additional 90 million acres, two-thirds of remaining reservation lands through the General Allotment Act, again taking the most valuable lands and leaving many reservations a checkerboard difficult to put to productive use;
3. From the 1930's to the present the federal government has invested in massive infrastructure development on state held lands and ignored tribal reservations;
4. State governments do not provide services on Indian reservations, but impose taxes on natural resources, retail sales, and personal property. Tribal governments face a losing proposition when forced to collect state taxes: if tribes impose a tribal tax, the resulting dual taxation drives business away. Or, tribes collect no taxes and suffer inadequate roads, schools, police, courts and health care. This dilemma is fundamentally unfair, undermines the Constitution's promise of respect for tribal sovereignty, and keeps Indian reservations the most underserved communities in the nation.
5. Native people have suffered from systemic discrimination in both employment and business development opportunities throughout U.S. history;

6. The federal government has historically maintained a paternalistic bureaucracy intended to prevent development of tribal lands and funnel natural resources to surrounding non-Indian communities;
7. Only in the last forty years has the United States begun to embrace its trust responsibilities and implement policies of tribal self-determination that respect inherent tribal sovereignty and local control.

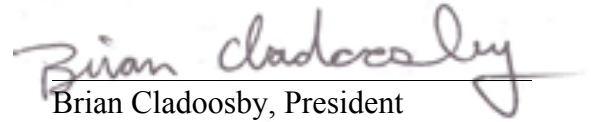
NOW THEREFORE BE IT RESOLVED that NCAI opposes any initiatives that threaten to erode tribal sovereignty, the trust and treaty protections of tribal lands, the policy of self-determination, and the government to government relationship between the United States and Tribes, and calls on members of Congress to recognize and reaffirm the United States' policy of self-determination for Indian Nations, and to honor the treaty and trust relationship upon which the United States was built; and

BE IT FURTHER RESOLVED that NCAI urges Congress and the Administration fulfill its obligations to restore economic development in Indian Country by:

1. Restoring the tribal land base through continued support for tribal acquisition of trust lands and transferring federally held lands back to the original Tribal owners;
2. Investing in infrastructure in Indian Country including roads, bridges, schools, colleges, hospitals, water and power systems and every other form of infrastructure that the rest of America takes for granted;
3. Amending the Federal Trader Regulations at 25 C.F.R. 140 to end the unfair system of dual taxation and supporting the development of a revenue system for tribal governments;
4. Reforming the federal tax code to incentivize job creation in Indian Country and provide tribal governments the same tools and access to capital as state governments;
5. Continuing to modernize the trust land management system in consultation with Indian Nations to emphasize tribal decision-making and control and ensure the continued trust land protections.

CERTIFICATION

The foregoing resolution was adopted by the Executive Committee at the 2017 Executive Council Winter Session of the National Congress of American Indians, held at the Capital Hilton, February 13-16, 2017, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary