



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #PHX-16-018

**TITLE: In Opposition to Congressmen Rob Bishop and Jason Chaffetz's bill,
H.R. 5780, the Utah Public Lands Initiative and its Proposal to Take
Reservation Lands**

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NCAI HEADQUARTERS

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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 Ute Indian Tribe of the Uintah and Ouray Reservation was a founding member of NCAI and has been an active member and participant since NCAI was first established; and

WHEREAS, on January 5, 1882, a reservation, known as the Uncompahgre Reservation, which is now a part of the Ute Indian Tribe's Uintah and Ouray Reservation, was formally established for the Uncompahgre Utes in Utah by President Chester A. Arthur pursuant to an Executive Order; and

WHEREAS, the 10th Circuit Court of Appeals found in *Ute Indian Tribe v. Utah*, 773 F.2d 1087, 1093 (10th Cir. 1985), *reaffirmed by Ute Indian Tribe v. Utah*, 114 F.3d 1513, 1528 (10th Cir. 1997), and *reaffirmed again by Ute Indian Tribe v. Utah*, 790 F.3d 1000 (10th Cir. 2015) that the Ute Indian Tribe's Uncompahgre Reservation has not been disestablished or diminished; and

WHEREAS, the Tenth Circuit even threatened Utah with sanctions for continuing to challenge this settle law, in June 2015, Court stated, "A system of law that places any value on finality — as any system of law worth its salt must — cannot allow intransigent litigants to challenge settled decisions year after year, decade after decade, until they wear everyone else out;" and

WHEREAS, land within the Ute Indian Tribe's Uncompahgre Reservation are currently managed by the BLM, but Congress has never taken Indian title to these lands, and the lands should have been restored to Indian trust status and managed by the Bureau Indian Affairs following the passage of the Indian Reorganization Act of 1934; and

WHEREAS, NCAI, through enactment of Resolution #SD-15-026 and Resolution #ECWS-16-002, previously supported the Ute Indian Tribe's request that the Secretary of the Interior issue an order restoring all unsold land on the Uncompahgre Reservation to tribal trust under 25 U.S.C. § 463(a), has called upon the President of the United States issue an executive order reaffirming the boundaries of the Uncompahgre Reservation, and opposed draft legislation for a Utah Public Lands Initiative that would take more than 100,000 acres of the Ute Indian Tribe's Uncompahgre Reservation lands for the benefit of the State of Utah; and

WHEREAS, on July 14, 2016, Congressman Rob Bishop introduced, H.R. 5780, the Utah Public Lands Initiative Act, which was cosponsored by Congressman Jason Chaffetz, without making any changes to the provisions that would take these Reservation lands for the benefit of the State of Utah as well as other provisions affecting the Tribe's sovereignty, jurisdiction and water rights over its Reservation; and

WHEREAS, on September 22, 2016, after only one hearing in the Subcommittee on Federal Lands just one week earlier, sought approval of H.R. 5780 by the House Committee on Natural Resources; and

WHEREAS, despite resolutions and letters of opposition from the National Congress of American Indians, the Affiliated Tribes of Northwest Indians, the Rocky Mountain Tribal Leaders Council and a number of other tribes, the Committee on Natural Resources approved H.R. 5780 on a party-line vote; and

WHEREAS, in seeking to take the Ute Indian Tribe's Uncompahgre Reservation lands H.R. 5780, is unjust, counter to existing Federal law, undermines modern Federal policies promoting tribal self-determination and economic development, undermines the Ute Indian Tribe's role as a major energy producer and engine for economic growth in northeast Utah and is likely to result in long-term litigation which will serve to bring more uncertainty and conflict to land disputes in Utah; and

WHEREAS, H.R. 5780 does not account for and is counter to tribal interests and existing Federal laws related to tribal water rights and rights-of-ways on tribal lands and within Indian Country.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians again calls upon the Secretary of the Interior to immediately issue an Order of Restoration restoring all remaining surplus lands located on the Ute Indian Tribe's Uncompahgre Reservation pursuant to 25 U.S.C. § 463 to protect the Tribe's Reservation and homeland; and

BE IT FURTHER RESOLVED, that NCAI opposes any attempt in Congress H.R. 5780, the Utah Public Lands Initiative Act, or any subsequent legislation to take the Ute Indian Tribe's Uncompahgre Reservation lands for the benefit of the State of Utah; and

BE IT FURTHER RESOLVED, that NCAI calls upon members of the Committee on Natural Resources, to reconsider their vote in favor of taking more than 100,000 acres of the Ute Indian Tribe's Uncompahgre Reservation lands; and

BE IT FURTHER RESOLVED, that NCAI finds that the era of taking ancestral Indian homelands for the benefit of non-Indians is over and that further efforts to take tribal lands should be opposed by all; and

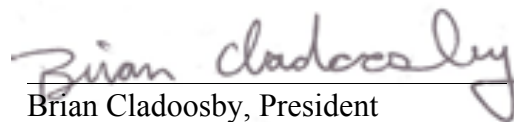
BE IT FURTHER RESOLVED, that NCAI calls for thorough consultation with all tribal government stakeholders in Utah before further Congressional action on H.R. 5780; and

BE IT FURTHER RESOLVED, that NCAI calls on members of Congress to oppose H.R. 5780, or any subsequent legislation, that seeks the removal of provisions taking Ute Indian Tribe's Uncompahgre Reservation lands from bill; 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 2016 Annual Convention of the National Congress of American Indians, held at the Phoenix Convention Center, October 9 to October 14, 2016, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary