



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #MKE-17-055

TITLE: To Create a Taskforce on Trust Compliance During Federal Permitting Processes

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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, Indian tribes are independent sovereigns and through treaties, agreements, statues and executive orders, Indian tribes were offered the protection of the United States, guaranteed the sanctity of our homelands, and reserved our original inherent rights to tribal self-governance; and

WHEREAS, the original policy of the United States was to respect Indian tribes as sovereigns, with inherent rights to self-government, liberty, and possession and control of our Indian lands and territory and to deal with Indian tribes on a Nation-to-Nation basis founded on mutual respect, mutual consent, and deference to internal tribal self-governance; and

WHEREAS, subsequent case law has confirmed that the trust doctrine includes fiduciary obligations for the management of trust lands and natural resources; and

WHEREAS, 56 million acres of tribal land are held in trust by the United States under binding legal obligations to protect the lands, waters, and the tribal communities residing thereon; and

WHEREAS, this relationship necessitates that the United States consult with Indian tribes on a government-to-government basis whenever federal activities have tribal impacts or the potential to impact tribal interests and seeking mutually agreed upon courses of action whenever possible; and

WHEREAS, recent federal statutes and administrative actions will streamline the federal permitting process for all renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, and many other sectors; and

WHEREAS, the United States must still uphold its trust and treaty obligations to protect tribal lands, waters, and sacred places while promoting more efficient permitting of projects requiring federal approval; and

WHEREAS, NCAI, in Resolution #PHX-16-067, has called upon the President and the Secretary of the Interior to ensure that all agencies permitting infrastructure projects affecting tribal lands, waters, or sacred places demonstrate compliance with federal trust obligations, treaties, the consultation requirements, the U.N. Declaration on the Rights of Indigenous Peoples, and all statutory obligations applicable to the project; and

WHEREAS, NCAI, in Resolution #PHX-16-067, resolved that Indian tribes, as sovereign nations, must be provided, in a manner similar to state governments, full, early, and ongoing participation in infrastructure permitting discussions; and

WHEREAS, Indian tribes have the responsibility to their citizens, as sovereign governments, to insist that the federal government uphold its trust and treaty obligations.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) calls for the formation of a tribal taskforce on recognizing tribal sovereign interests and ensuring trust compliance during federal permitting processes; and

BE IT FURTHER RESOLVED, that the purpose of the taskforce will be to produce a publication that describes appropriate, practicable solutions that will ensure that tribal interests are protected during federal permitting processes; and

BE IT FURTHER RESOLVED, that the publication shall put forth a framework for legislative solutions that would promote tribal consent based approaches to federal permitting decision-making; and

BE IT FURTHER RESOLVED, that the framework shall ensure tribal governments are included from the outset of and throughout any decision-making or advisory actions carried out by federal entities related to federal permitting decisions; and any delegation of federal permitting authority to a state or other entity; and

BE IT FURTHER RESOLVED, that the taskforce shall remain in existence until the conclusion of the NCAI Annual Meeting that occurs at least 365 days following the publication of the taskforce's recommendations; 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 2017 Annual Session of the National Congress of American Indians, held at the Wisconsin Center in Milwaukee, WI, Oct 15, 2017 - Oct 20, 2017, with a quorum present.



Jefferson Keel, President

ATTEST:



Juana Majel Dixon, Recording Secretary