



NATIONAL CONGRESS OF AMERICAN INDIANS

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RESOLUTION #SD-02-094

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Title: Support for NCAI Amicus Brief in the *Cobell v. Norton* Lawsuit

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 and their way of life, 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, sovereign Indian tribes and the United States of America share a unique trust relationship, which is embodied in the Constitution of the United States, numerous court opinions, statutes, executive orders, and federal agency policies; and

WHEREAS, the NCAI, through Resolution #SPO-01-006, has opposed the Secretary of the Interior's proposal to reorganize the Bureau of Indian Affairs (BIA) and create a new Bureau of Indian Trust Asset Management (BITAM) which was proposed in the *Cobell v. Norton* class action suit and was withdrawn as a result of tribal opposition to the proposal; and

WHEREAS, the NCAI has supported the work of the Trust Reform Task Force to provide tribal perspectives and develop alternative approaches to the reform of the Department of Interior's management of tribal trust assets; and

WHEREAS, a September 17, 2002 order in the *Cobell v. Norton* class action suit requires that the Secretary of the Interior submit a comprehensive plan for the management of trust accounts and has invited the Plaintiffs to submit proposed standards and a trust management plan; and

WHEREAS, the standards and plans submitted by the parties in the *Cobell v. Norton* case will undoubtedly affect tribal trust interests; and

WHEREAS, tribes have expressed their strong desire to advise the court in the *Cobell v. Norton* suit not to issue a decision that infringes upon tribal sovereignty or governmental authority; and

WHEREAS, the NCAI and its member tribes have agreed upon the following five fundamental trust principles that must be taken into account with respect to any reform of the trust management responsibilities of the United States government;

- (1) that Indian trust fund management be governed by clear and enforceable standards, with an express right of compensation for trust mismanagement, and independent review of trust management activity;
- (2) that the primary trust responsibility of the United States is to protect the governing authority of Indian tribes. Trust reform must not interfere with the ability of tribes to regulate land use and resource management within their own reservations. Tribal management of trust assets and accounts through self-determination contracts and compacts should not be hindered by reform plans;
- (3) that reform of the United States' Indian trust fund management not reprogram funds from vitally needed BIA services and not create new levels of bureaucracy that would impede the delivery of trust services to local needs;
- (4) that trust reform requires increased tribal control over land and resources along with a federal system that provides oversight and technical assistance in flexible arrangements driven by the unique circumstances of each reservation;
- (5) that tribal governments must be intimately involved in developing new systems and policies for trust management, with consultation taking place in a manner that ensures that tribal issues are actively addressed; and

WHEREAS, Resolution # SPO-01-006 authorized NCAI to express its concerns and positions to the United States District Court for the District of Columbia in *Cobell v. Norton* CIV # 96-1285.

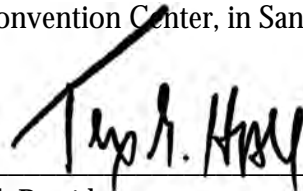
NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby supports the filing of a motion for leave to file an amicus brief on behalf of its member tribes in the *Cobell v. Norton* litigation; and

BE IT FURTHER RESOLVED, that the NCAI supports the filing of an amicus brief developed in coordination with other tribes and tribal organizations that shall inform the court of five tribal trust principles that NCAI and its member tribes have agreed upon for trust reform; and

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

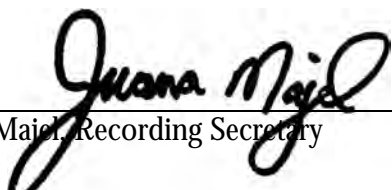
CERTIFICATION

The foregoing resolution was adopted at the 2002 Annual Session of the National Congress of American Indians, held at the Town and Country Convention Center, in San Diego, California on November 10-15, 2002 with a quorum present.



Tex Hall, President

ATTEST:



Juana Majel, Recording Secretary

Adopted by the General Assembly during the 2002 Annual Session of the National Congress of American Indians, held at the Town and Country Convention Center, in San Diego, California on November 10-15, 2002.