



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #REN-13-003

### TITLE: Transferring Federal Lands to Tribal Trust

**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**, Indian Tribes are sovereigns that pre-date the United States, with prior and treaty protected rights to self-government and to our Indian lands; and

**WHEREAS**, the Constitution of the United States, through the Treaty, Commerce, and Apportionment Clauses and the 14<sup>th</sup> Amendment, recognizes the sovereign status of Indian Tribes as Native nations established prior to the United States; and

**WHEREAS**, through treaties with the United States, the various federal laws mandating the allotment of Indian lands, and U.S. authorized and unauthorized takings, tribal governments ceded and had taken hundreds of millions of acres of tribal homelands to help build this Nation; and

**WHEREAS**, the United States owns more than 670 million acres of lands, which are controlled, managed, and administered by federal land agencies, including the USDA – Forest Service, the U.S. Department of the Interior – Bureau of Land Management (BLM), National Parks Service (NPS), and Fish and Wildlife Service (FWS), and other agencies; and

**WHEREAS**, the Federal Land Transaction Facilitation Act (FLTFA), the Federal Land Policy and Management Act (FLPMA), the National Forest Road and Trail Act (NFRTA), the Recreation and Public Purposes Act (RPPA) and other federal laws and regulations authorize the administrative transfer of federal lands identified for disposal to State and local municipalities and individuals, often without the input of impacted tribal governments; and

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**WHEREAS**, a growing number of state governments have enacted or are considering state legislation that would authorize the state to take over federal lands within their boundaries, also without requiring consultation or acknowledging the legal rights of tribal governments to such lands; and

**WHEREAS**, hundreds of treaties between the United States and Indian tribes acknowledge that tribal governments and their citizens retain authority to hunt, fish, gather, and generally exercise treaty rights on federal lands that are often adjacent to Indian lands; and

**WHEREAS**, federal lands are carved out of the ancestral lands of Indian tribes, the historical and spiritual connection of Native Americans to these lands has not been extinguished, and some of these lands include the remains of our ancestors, and our people continue to pray, hold ceremonies, and gather traditional and medicinal plants on these lands; and

**WHEREAS**, National Forest Service (NFS) lands alone share nearly 3,000 miles of contiguous border with tribal government-owned lands, and the U.S. Department of Agriculture (USDA) officially acknowledges that many lands now within the NFS are the ancestral homelands and ceded territories of many Tribes; and

**WHEREAS**, Executive Orders, federal laws, policies, and regulations, and treaty promises acknowledge legal rights of access to certain federal lands and require federal consultation with affected tribal governments prior to commencing federal action impacting such lands; and

**WHEREAS**, Executive Order (E.O.) 13007, Indian Sacred Sites, requires Federal agencies responsible for the management of Federal lands to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and to avoid adversely affecting the physical integrity of such sacred sites; and

**WHEREAS**, the American Indian Religious Freedom Act (AIRFA) (established to protect Native sacred areas), the Archeological Resources Protect Act (ARPA) (established to protect archeological resources on federal lands), the Native American Graves Protection and Repatriation Act (NAGPRA) (requires Federal land managers to protect Native American remains on federal lands and imposes consultation and repatriation requirements), the Religious Freedom Restoration Act (RFRA), and the National Historic Preservation Act (NHPA) (requires agencies, prior to approving federal action, to consult on possible impacts properties of religious and cultural importance to Indian tribes), all generally impose legal requirements on federal land agencies to consult with Indian tribes prior to taking any action that would impact the integrity of the lands involved.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI urges Congress and the Administration to reauthorize and amend FLTFA, FLPMA, NFRTA, RPPA, and other federal land management laws and regulations to contact and offer federal lands considered for disposal or transfer that are subject to treaty provisions or are located within or adjacent to a tribe's existing or former reservation or aboriginal territory to such tribal government at no cost; and

**BE IT FURTHER RESOLVED**, that the NCAI urges Congress and the Administration to reauthorize and amend federal land management laws and regulations to contact and offer federal lands considered for disposal or transfer to the nearest federally recognized Indian tribe for direct sale at the appraised value prior to subjecting such land to the competitive bidding process; 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 2013 Midyear Session of the National Congress of American Indians, held at the Atlantis Casino from June 24 - 27, 2013 in Reno, Nevada with a quorum present.

President

**ATTEST:**

Handwritten signature of Jeffrey K. Kuhl in black ink, written over a horizontal line.Handwritten signature of Edward K. Thomas in blue ink, written over a horizontal line.

Recording Secretary