



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #REN-19-017

TITLE: Support for Federal Legislation to Enable All Federally Recognized Tribal Nations to Place Land into Trust and Protect Existing Tribal Trust Lands

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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, tribal nations are governments that pre-date the United States and, through the Indian Commerce Clause and the Treaty Clause, the Constitution of the United States recognizes the status of Indian tribes as sovereign nations; and

WHEREAS, Indian lands are the original territory of tribal nations. From the colonial era, private persons were not permitted to acquire Indian lands without the consent of the sovereign, and the United States adopted that legal doctrine in the Indian Non-Intercourse Act when the American Republic was founded; and

WHEREAS, the Allotment Act, accompanied by the policy of forced assimilation, resulted in the taking and loss of over 86 million acres of tribal homelands; and

WHEREAS, Congress enacted the Indian Reorganization Act of 1934 (IRA) to reverse the failed allotment policy and to further the overarching goal of restoring and protecting tribal homelands, empowering tribal governments, and preserving tribal cultures; and

WHEREAS, since 1934, Republican and Democratic Administrations have interpreted the IRA to authorize the Department of the Interior (Interior) to place land into trust for all federally recognized tribal nations; and, for 75 years, Interior has taken land into trust for the benefit of tribal nations, which has enabled them to build schools, health clinics, housing, and other essential community infrastructure as well as preserve cultural and sacred areas; and

WHEREAS, in 2009, the U.S. Supreme Court upheld this longstanding statutory interpretation of the IRA in ruling in *Carcieri v. Salazar* that the Secretary of the Interior's authority to take land into trust is limited to only those tribal nations "under federal jurisdiction" in 1934; and

WHEREAS, *Carcieri* has created significant uncertainty and ambiguity in the land-into-trust process given terms such as "federally recognized" were not developed until the 1970s when Interior established a formal federal acknowledgement process; and

WHEREAS, *Carcieri* has spawned countless protracted lawsuits over the status of tribal lands and has opened existing tribal trust lands to attack; and

WHEREAS, *Carcieri* is causing irrevocable damage to tribal sovereignty, tribal cultures, and the federal trust responsibility, and has deterred much needed financial investment and economic development in Indian Country; and

WHEREAS, without legislation to address *Carcieri* and protect trust lands, litigation will continue to mushroom and threaten existing tribal trust lands throughout Indian Country and could result in additional harmful U.S. Supreme Court precedents that would continue to adversely impact tribal sovereignty.

NOW THEREFORE BE IT RESOLVED, that in furtherance of NCAI Resolutions RAP-10-024 and MSP-15-044, the National Congress of American Indians (NCAI) calls on the U.S. Congress to enact legislation to reaffirm the Secretary of the Interior's authority to restore tribal homelands for all federally recognized tribal nations, including Alaska Native tribal governments, to protect current trust lands for all tribal nations; and

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

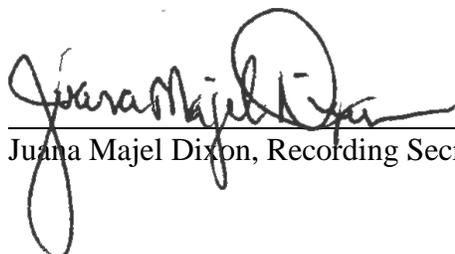
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2019 Mid-Year Session of the National Congress of American Indians, held at the Nugget Casino Resort, June 24-27, 2019, with a quorum present.



Jefferson Keel, President

ATTEST:



Juana Majel Dixon, Recording Secretary