

# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ECWS-10-003 (rev. 2/25/2010)



### **TITLE: Opposing Discriminatory State Legislation that is Designed to Directly Interfere with the Federal-Tribal Trust Relationship**

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

**WHEREAS**, the United States government has a legal and moral obligation to promote and protect the sovereignty of Indian tribes and foster tribal self-governance (Executive Order 13175, Section 2(c)); and

**WHEREAS**, the preservation and enforcement of this trust relationship is essential to shield Indian tribes from the intrusion of state power over Indian tribal governments and lands; and

**WHEREAS**, past extensions of state authority and jurisdiction over Indian lands have resulted in erosion of tribal sovereignty and dramatic losses of land, much of which had been in Indian possession from time immemorial; and

**WHEREAS**, the Arizona State Legislature is currently considering HB 2297, legislation that would provide municipalities with the unilateral authority to annex fee land owned by a tribe when the tribe has requested that the United States take the land into trust for the tribe's benefit; and

**WHEREAS**, this legislation would amend Arizona law to create a discriminatory annexation process where tribes, unlike other landowners facing annexation, would not be required to approve an annexation before it takes effect; and

**WHEREAS**, HB 2297 is clearly designed to prevent or obstruct the Department of the Interior consideration to acquire tribal fee land into trust and, as such, this legislation would unacceptably interfere with the Secretary of the Interior's fee-to-trust

#### EXECUTIVE COMMITTEE

PRESIDENT  
**Jefferson Keel**  
*Chickasaw Nation*

FIRST VICE-PRESIDENT  
**Juana Majel Dixon**  
*Pauma Band - Mission Indians*

RECORDING SECRETARY  
**Theresa Two Bulls**  
*Oglala Sioux Tribe*

TREASURER  
**W. Ron Allen**  
*Jamestown S'Klallam Tribe*

#### REGIONAL VICE-PRESIDENTS

ALASKA  
**William Martin**  
*Central Council Tlingit & Haida*

EASTERN OKLAHOMA  
**Cara Cowan Watts**  
*Cherokee Nation*

GREAT PLAINS  
**Marcus D. Levings**  
*Mandan, Arikara and Hidatsa Nation*

MIDWEST  
**Matthew Wesaw**  
*Pokagon Band of Potawatomie*

NORTHEAST  
**Lance Gumbs**  
*Shinnecock Indian Nation*

NORTHWEST  
**Brian Cladoosby**  
*Swinomish Tribal Community*

PACIFIC  
**Don Arnold**  
*Scotts Valley Band of Pomo Indians*

ROCKY MOUNTAIN  
**Scott Russell**  
*Crow Tribe*

SOUTHEAST  
**Archie Lynch**  
*Haliwa-Saponi Indian Tribe*

SOUTHERN PLAINS  
**Darrell Flyingman**  
*Cheyenne & Arapaho Tribes*

SOUTHWEST  
**Joe Garcia**  
*Ohkay Owingeh*

WESTERN  
**Irene Cuch**  
*Ute Indian Tribe*

EXECUTIVE DIRECTOR  
**Jacqueline Johnson Pata**  
*Tlingit*

#### NCAI HEADQUARTERS

1516 P. Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax

obligations, as well as the United States' general trust responsibility to American Indian tribes; and

**WHEREAS**, NCAI has previously opposed land-into-trust restrictions from similar outside political and public efforts including previous, proposed federal legislation and resolved "that NCAI does hereby strongly urge the Administration and the Congress to actively oppose and reject efforts to restrict the placement of lands acquired by tribal governments into trust and efforts to impose state regulation and jurisdiction on such lands" (NCAI Resolution #STP-00-025); and

**WHEREAS**, by subsequent Resolution #DC-01-004, "Opposing Application of State Regulations, Taxes, and Jurisdiction to Lands Taken into Trust on behalf of Indian Tribes," and Resolution #MSH-01-018, "Reaffirming Opposition to Application of State Regulations, Taxes, and Jurisdiction to Lands Taken into Trust on behalf of Indian Tribes," the NCAI currently opposes any and all efforts of state authorities "to interfere with the federal-tribal trust relationship and . . . to severely restrict the Department of the Interior's ability to take lands into trust for the benefit of Indian tribes"; and

**WHEREAS**, such assertions of state authority constitute an "invasion of the federal-tribal trust relationship" and set a "dangerous precedent for all tribes" (NCAI Resolution #MSH-01-018 and Resolution #DC-01-004); and

**WHEREAS**, Arizona legislation now seeks to accomplish similar unacceptable goals by amending state annexation law to single out Indian tribes for discriminatory treatment by allowing a municipality to annex tribally owned fee land without first affording the tribal landowner any consultation or any due process; and

**WHEREAS**, enactment of HB 2297 would attempt to set a dangerous precedent for all tribes as it would constitute discriminatory state legislation that (1) attempts to modify the federal laws governing fee-to-trust acquisitions; and (2) is a fundamental intrusion on the tribal sovereign right of self-government which the United States, as trustee, is legally bound to foster, support and protect under longstanding federal policy and law (Executive Order 13175, Section 2(c)); and

**WHEREAS**, it is NCAI's long-standing policy to oppose state legislation that invades and attempts to obstruct the federal trust obligation to acquire lands-in-trust for the benefit of Indian tribes.

**NOW THEREFORE BE IT RESOLVED**, that NCAI recognizes that allowing a state or municipality to interfere with the fee-to-trust process in the manner proposed by Arizona or any other state sets a dangerous and unacceptable precedent for American Indian and Alaska Native tribes across the United States and is an invasion of the federal-tribal trust relationship; and

**BE IT FURTHER RESOLVED**, that NCAI hereby firmly opposes this attempt to impose discriminatory restraints on the fee-to-trust process under the guise of state law; and

**BE IT FINALLY RESOLVED**, that NCAI urges the Obama Administration, the Department of the Interior, and the United States Department of Justice to take whatever action necessary to ensure that state laws are not used to thwart the federal process, authority and duty for taking land into trust for the benefit of Indian tribes.

## CERTIFICATION

The foregoing resolution was adopted by the Executive Committee at the 2010 Executive Council Winter Session of the National Congress of American Indians, held in Washington, D.C. on February 28, 2010, with a quorum present.

\_\_\_\_\_  
President

**ATTEST:**

\_\_\_\_\_  
Recording Secretary