



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #DEN-07-004

TITLE: Support for a Tribal Leaders Planning Initiative for the Bureau of Indian Affairs and Opposition to the Proposed Modernization Initiative

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 U.S. Department of Interior (“DOI”) and the Bureau of Indian Affairs (“BIA”) are required by Presidential Executive Order 13175 (November 6, 2000) to have a policy for consulting with federally recognized Indian tribes regarding “legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes;” and

WHEREAS, on August 17, 2007, Carl Artman, the Assistant Secretary for Indian Affairs at the U.S. Department of Interior, notified all tribes by letter that the Bureau of Indian Affairs was going to hold consultation meetings during the month of September; and

WHEREAS, tribes across the country participated in the regional meetings and expressed concern of the unclear objectives of the Modernization Initiative, the lack of information provided as guidance for the Modernization Initiative, the rushed manner in which the tribal consultation was carried out, and concerns of how the Modernization Initiative would adversely affect funding of programs and services for tribal communities, and ultimately may lead to a dismantling of federal trust responsibilities to tribal governments; and

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WHEREAS, the tribes find that another reorganization of the BIA would have substantial direct effects on tribes and would result in a re-distribution of power, responsibilities and finances between the BIA and the tribes; and

WHEREAS, tribal leaders present at the meetings 1) refused the DOI's request to support further reductions in the Indian programs and services by helping recommend additional BIA budget cuts, and 2) opposed the Modernization Initiative and any other similar BIA reorganization on grounds that such efforts appear designed to save the federal government money at the expense of diminished services to tribes and fewer resources to carry out federal Indian trust obligations; and

WHEREAS, history supports the tribal leaders' conclusion that reorganizations hurt Indian programs and wasted millions of dollars as exemplified in the following:

- in response to the *Cobell v. Kempthorne* class action lawsuit, the DOI has planned and executed numerous reorganizations of Indian programs within and outside the BIA, often without meaningful or timely tribal input and despite tribal objections and have resulted in the reduction of funding for essential Indian programs; and
- the BIA has spent more than \$40 million on the dysfunctional Trust Asset Accounting and Management System ("TAAMS") and over \$100 million to improve its Indian trust systems, but remains inaccessible by Internet due to inadequate system security; and
- on September 26, 2007 DOI Inspector General Earl E. Devaney reported that his office had launched an investigation into a \$149 million Minerals Management Service computer system that could be considered a "profound failure," a system that is responsible for handling over \$8 billion in oil and gas payments on federal and Indian lands; and
- the DOI, whose overall computer system has been rated one of the worst in the government due to lax security, has spent hundreds of millions of dollars on faulty or failed systems affecting Indian trust assets; and

WHEREAS, tribal leaders are not willing to participate in the Modernization Initiative if it is another attempt to diminish federal trust services and undermine the federal government's trust relationship and corresponding trust responsibilities owed to Tribes; and

WHEREAS, the Office of Special Trustee has taken on the functions and budgets of the Bureau of Indian Affairs to the detriment of direct services provided at the local level and in violation of the Indian preference policy; and

WHEREAS, tribal leaders recognize that Assistant Secretary Carl Artman has identified important issues at the BIA and that many of these issues are systemic problems where long term involvement from tribal leaders is needed to create solutions that will improve the delivery of services on the reservations.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby oppose the BIA's Modernization Initiative; and

BE IT FURTHER RESOLVED, that the NCAI supports a tribally driven initiative to improve the effectiveness and efficiency of the BIA, provided that:

- 1) the process is tribally driven where tribes lead and work in partnership with the Bureau of Indian Affairs
- 2) the process will respect the government to government relationship
- 3) that the purpose will be to improve the delivery of services at the local level on the reservations
- 4) that the process will be inclusive of all tribes
- 5) that tribes will have the opportunity to do initial organization and planning without BIA interference; and
- 6) the process and the result will reflect the great diversity among tribes including their different needs, land bases, government structures, cultures and treaties; and

BE IT FURTHER RESOLVED, that NCAI supports the attached guiding principles for a process of engagement and dialogue between tribal leaders and the Bureau of Indian Affairs; and

BE IT FURTHER RESOLVED, that tribal leaders will remain vigilant and continue to monitor the BIA's actions in upholding its trust responsibilities; and

BE IT FURTHER RESOLVED, that tribal leaders demand that the BIA, as trustee, defend against any budget decreases; advocate for budget increases and programs provided at the Agency level; protect tribal land bases and natural resources; and advance tribal sovereignty; and


BE IT FURTHER RESOLVED, that tribal leaders demand that the functions of the Office of Special Trustee be returned to a structure that is integrated with the Bureau of Indian Affairs in a direct line of management authority, and that the principles of Indian preference be honored by all agencies of the Department of Interior providing services to Indian tribes; and

BE IT FURTHER RESOLVED, that the foregoing resolution agreed to by the members of the National Congress of American Indian be transmitted to the U.S. Department of Interior, the Bureau of Indian Affairs, and the United States Congress; and

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

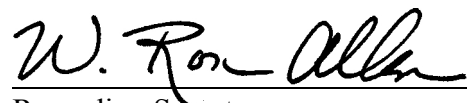
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2007 Annual Session of the National Congress of American Indians, held at the Hyatt Regency Denver at the Colorado Convention Center in Denver, Colorado on November 11-16, 2007, with a quorum present.



President

ATTEST:



Recording Secretary

Attachment for DEN-07-004

**Guiding Principles for a Tribally Driven Process to Work in Partnership with the Bureau of Indian Affairs to address BIA issues****THE NEED TO PROVIDE ASSURANCES BY PUTTING TRIBAL LEADERS IN CHARGE OF THE PROCESS**

1. Tribes recognize that Secretary Artman has identified important issues at the BIA, and more involvement from tribal leaders is needed to plan for the future. If tribes are going to participate they need assurance that the government-to-government relationship will be respected and the purpose will be to improve the delivery of services at the local level on the tribal lands. The only way to achieve this goal is to put tribal leaders in charge of the process. The Indian Self-Determination policy is the only federal policy that has ever been successful in Indian country, because it was developed by tribal leaders and because it had broad tribal support. Also, given that the plan will need to span into the next Administration, any new plan will need the strong support of tribal leaders or it will not be implemented.
2. With the new focus, the initiative should be renamed the "Tribal Leader's Planning Initiative for the BIA." Tribal leaders are wary of starting a new "Task Force." Instead, tribes will start at the tribal, local and regional levels and build plans from the ground up that will meet local needs. The process must include the participation of all tribal leaders and all tribal organizations; no one can be excluded.
3. The goal is to start a new approach to dialogue with the Bureau of Indian Affairs – a process that is driven by tribal leaders with a common goal of meeting the local needs on tribal lands. If successful, this approach could develop into more permanent process for working on issues at the BIA over the long term.

SETTING UP A NEW PROCESS FOR THE TRIBAL LEADERS PLANNING INITIATIVE FOR THE BUREAU OF INDIAN AFFAIRS

1. The starting point should be to work on the issue of BIA employee attrition, and the recruitment, training and retention of employees at the BIA. This issue affects all tribes, and therefore all tribes and all regions should be included in the process. Attrition of retiring employees at the BIA could be seen as an opportunity. There is a chance to bring in a new generation of BIA employees and not simply place them at the same desks doing the same jobs, but instead to recruit and train employees to do the work that is most needed in Indian country.
2. A second prong of this process must include BIA onsite reviews of regional and agency offices in reach region, and that these reviews must include direct discussion with tribal leaders on their concerns about the performance of these offices.

3. Other issues involve particular groups of tribes, and different processes should be developed to work on these issues with the affected tribes. These include the Direct Service, 638 and Self-Governance and fractionation.
4. The process should embrace local and regional variations. Indian tribes are very diverse and the BIA structure and services will vary in different parts of the country.
5. BIA should rely on the tribes, local groups of tribes, and the regional tribal associations to engage in this work.
6. Tribal leaders will need information from the BIA in order to engage in this process. Tribes will need detailed employment and budget information, particularly at local and regional levels, and information on recruiting and training, etc.
7. NCAI may make recommendations for facilitating the process. Other national tribal organization should be included to take advantage of their specialized expertise. NCAI will report back to tribal leaders on all aspects of the initiative. The first report will be six months from the date of this resolution.
8. NCAI will solicit and secure the views of the 2008 presidential candidates on the issue of structural reform at the Bureau of Indian Affairs.
9. Some regions, such as the Affiliated Tribes of Northwest Indians, have already developed detailed recommendations for their regions. Other regions do not have a regional intertribal association. The BIA should work with the existing tribally-supported groups and coalitions within each region.
10. In planning for the Bureau of Indian Affairs, the functions and budget of the Office of Special Trustee should be included in planning process. In recent years OST has taken on a number of former BIA functions and budgets to the detriment of direct services provided at the local level.
11. The federal representatives for the BIA should be at the highest levels from both appointed and career positions and have extensive experience working directly with tribal governments.