



NATIONAL CONGRESS OF AMERICAN INDIANS

**The National Congress of American Indians  
Resolution #ABQ-19-050**

**TITLE: Calling on the Secretaries of Commerce and the Interior to Repeal or Congress to Void Rule Changes Made to the Endangered Species Act**

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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**, the Secretaries of Commerce and the Interior proposed three major rule changes to the Endangered Species Act on July 25, 2018, found at 50 C.F.R. 17, 50 C.F.R. 402, and 50 C.F.R. 424; and

**WHEREAS**, Secretarial Order 3206, “American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act,” requires the Secretaries of Interior and Commerce to conduct government-to-government consultations when proposed Endangered Species Act regulations may affect Indian lands, tribal treaty and trust resources, or the exercise of American Indian tribal rights; and

**WHEREAS**, tribal trust resources and tribal rights are threatened by the proposed July 25, 2018 rule changes; and

**WHEREAS**, tribal leaders have expressed through public comment that proposed rule changes threaten tribal trust resources and tribal rights and that agencies have not appropriately conducted tribal consultation; and

**WHEREAS**, when tribal nations requested government-to-government meetings they were offered only staff-to-staff meetings; and

**WHEREAS**, the Departments of Commerce and Interior have federal trust responsibilities to take into consideration the impacts of their actions and policies under the Act on tribal use of listed species for cultural and religious purposes; and

**WHEREAS**, the agencies informed tribal leaders in a letter dated June 28, 2019, that they determined the revised Endangered Species Act regulations do not have “tribal implications” under Section 1(A) of EO 13175 and that formal government-to-government consultation is not required by EO 13175 and related policies of the departments;” and

**WHEREAS**, the Departments of Commerce and Interior adopted final rules for Revision of the Regulations for Listing Species and Designating Critical Habitat and Revision of Regulations for Interagency Cooperation on September 26, 2019; and

**WHEREAS**, the concerns and comments of tribal nations have been bypassed and ignored; and

**WHEREAS**, the agencies have demonstrated a bias towards deregulation rather than protecting endangered species, a federal action that overlaps with the federal government’s responsibility to protect the trust resources and treaty rights of tribal nations, under established rules; and

**WHEREAS**, adoption of the final rules will significantly undermine and damage tribal trust resources and treaty rights.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) does hereby call upon the Secretaries of Commerce and Interior to repeal or Congress to void the final rules and respond to tribal concerns associated with the July 25, 2018, proposed Endangered Species Act rule changes; and

**BE IT FURTHER RESOLVED**, that NCAI again calls upon the Secretaries of Commerce and Interior to immediately commit to meaningful government-to-government tribal consultation to hear tribal leadership’s concerns and address those concerns in a manner that clearly states the rationale for the recommended final decision and explain how the decision relates to the Services’ trust responsibilities; 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 2019 Annual Session of the National Congress of American Indians, held at the Albuquerque Convention Center, October 20-25, 2019, with a quorum present.



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Fawn Sharp, President

**ATTEST:**



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Juana Majel Dixon, Recording Secretary