



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #REN-19-021

**TITLE: Affirming Tribal Rights to Regulate Economic Development along
Highway Rights of Way within Tribal 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, Shinnecock Indian Nation is a federally recognized tribe with full jurisdiction over its lands; and

WHEREAS, litigation now pending against the Shinnecock Indian Nation could set dangerous precedent interfering with jurisdiction and tribal governance in other tribal territories; and

WHEREAS, the Shinnecock Indian Nation, in reliance on its jurisdiction over its restricted fee lands, has entered into an economic development project, on land it has held from time immemorial, to construct and operate two digital billboards on either side of a state highway that runs through the Nation's lands pursuant to an easement that gives the State of New York no rights beyond road maintenance; and

WHEREAS, the State of New York has filed suit against the Shinnecock Indian Nation alleging various state regulatory authority, including that conferred by the federal government under the Highway Beautification Act (23 U.S.C. § 131), which requires states to enforce prohibition of roadside advertising on a certain class of roads; and

WHEREAS, the Interior Board of Indian Appeals has previously determined that states do not have authority to enforce the Highway Beautification Act on Indian Lands (*Morongo Band of Mission Indians v. California Area Director*, 7 IBIA 299 (1979), and that determination was confirmed by the California Supreme Court in 1985 (*Dept. of Transportation v. Naegele*, 38 Cal. 2d 512, 689 P. 2d 150 (1985)); and

WHEREAS, the action against the Shinnecock Indian Nation is but one example of a state attempting to exercise regulatory authority over tribal lands as a tool to intrude on tribal sovereignty; and

WHEREAS, states have claimed rights of way across tribal lands across the country; and

WHEREAS, states frequently overreach the limited rights they may have acquired on Indian lands through rights of way; and

WHEREAS, other tribal nations may be faced with state attempts to preclude them from lawful development of their own lands alongside highways; and

WHEREAS, state attempts to regulate tribal advertising on tribal land represent an improper intrusion into tribal sovereignty.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) condemns state regulatory efforts to limit tribal rights to lawfully undertake economic development on tribal land; and

BE IT FURTHER RESOLVED, that the NCAI supports the efforts of all tribal nations to protect their inherent sovereign rights, including in the Shinnecock Indian Nation in preserving its rights; and

BE IT FURTHER RESOLVED, that the NCAI calls upon the Bureau of Indian Affairs of the United States Department of the Interior, as federal trustee for tribal nations, to support tribes on a nation-wide basis, to prevent unlawful intrusion into tribal economies; and

BE IT FURTHER RESOLVED, that the NCAI calls upon the United States to fully carry out its trust obligation to prevent States from infringing upon Indian lands; and

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

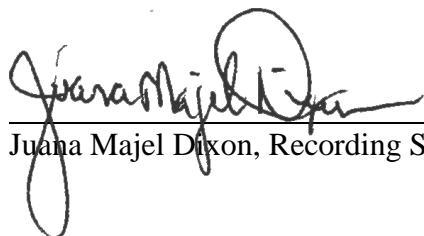
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2019 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