



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #SPO-16-002

### TITLE: Urging the Department of Defense to Reaffirm Its Commitment to Consult with Tribal Nations When Its Activities Impact Tribal Interests

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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, 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 support the Department of Defense's mission to protect the United States and its citizens from foreign aggression; and

**WHEREAS**, tribal citizens serve in the United States armed forces in greater numbers per capita than any other ethnic group and according to the Department of Defense in 2010 22,569 enlisted service members and 1,297 officers were American Indian; and

**WHEREAS**, Department of Defense facilities and activities often impact tribal lands and tribal rights; and

**WHEREAS**, the Executive Branch has issued numerous guidances and executive orders to facilitate and counsel its relationships with tribal nations including Executive Order 13007 *Indian Sacred Sites*, Executive Memorandum: *Government to Government Relations with Native American Tribal Governments*, and Executive Order 13084 *Consultation and Coordination with Indian Tribal Governments*; and

**WHEREAS**, the Department of Defense has adopted its American Indian and Alaska Native Policy through Department of Defense Instruction Number 4710.02: *DOD Interactions with Federally-Recognized Tribes*; and

**WHEREAS**, although the Department of Defense's policy calls on it to "provid[e] timely notice to, and consult[] with, tribal governments prior to taking any actions that may have the potential to significantly affect protected tribal resources, tribal rights, or Indian lands" and to "consult[] in good faith throughout the decision-making process"; and

**WHEREAS**, advanced and meaningful consultation must take place during the planning phases to identify impacts to tribal rights and resources, continue throughout the planning and decision-making process, and must take place well in advance of the Department of Defense making a final determination that could impact tribal lands, rights, business operations, and cultural preservation and protection; and

**WHEREAS**, tribal consultation is not just a procedural step in the Department of Defense's planning and decision-making process but is a substantive federal trust obligation that requires heightened awareness and diligence; and

**NOW THEREFORE BE IT RESOLVED** that the National Congress of American Indians calls on the Department of Defense to reaffirm its tribal consultation policy found in Department of Defense Instruction Number 4710.02: DOD Interactions with Federally-Recognized Tribes; and

**BE IT FURTHER RESOLVED** that the Department of Defense should consult with tribal nations in the project planning phase and prior to deciding on final actions that may impact tribal lands, rights, business operations, and cultural preservation and protection; and

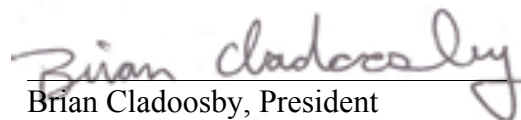
**BE IT FURTHER RESOLVED**, that the Department of Defense should on a facility-by-facility basis ensure that a proper tribal consultation protocol is in place where appropriate and that the tribal consultation protocol is followed; and

**BE IT FURTHER RESOLVED**, that the Department of Defense should proactively seek to minimize its impacts on tribal resources and mitigate any negative impacts; 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 2016 Midyear Session of the National Congress of American Indians, held at the Spokane Convention Center, June 27 to June 30, 2016, with a quorum present.

  
Brian Cladoosby, President

ATTEST:

  
Aaron Payment, Recording Secretary