



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #TUL-13-014

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**TITLE: Support Legislation to Remedy Injustices by Providing the Northern Cheyenne Tribe Ownership of Subsurface Rights within Its Reservation and Control over the Northern Cheyenne Trust Fund, and for the Transfer of Tribally-Owned Fee Lands to the United States to be Held in Trust for the Tribe**

**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**, the Northern Cheyenne Tribe has depended on its lands and land-based resources to support its way of life since time immemorial and has made supreme and historic sacrifices to repossess and maintain its homeland, including its Reservation in Montana; and

**WHEREAS**, the Tribe and its members are currently the beneficial owners of over 90% of the surface lands on the Northern Cheyenne Reservation and all but approximately 5,000 subsurface acres of the Reservation; and

**WHEREAS**, the Tribe currently suffers from tremendous social and economic challenges, including a lack of employment opportunities on the Reservation, which could be improved by Congressional legislation aimed at strengthening its control over its land base, natural resources and trust funds; and

**WHEREAS**, over 100 years ago, to resolve hostilities that had broken out between the Northern Cheyenne and non-Indian interests legally (and illegally) then located on or near the Northern Cheyenne Reservation, Congress directed that a federal agent be sent to the Northern Cheyenne Reservation to investigate and recommend an appropriate solution to those hostilities, and that agent's investigation resulted in a recommendation to Congress that the best solution would be to buy-out all non-Indian interests on or near the Reservation to facilitate extending the eastern boundary of the Northern Cheyenne Reservation to mid-channel of the Tongue River; and

**WHEREAS**, in executing that Congressional directive, the federal agent failed to purchase 8 sections of subsurface (coal and iron ore) under approximately 5,000 acres within the expansion area, which subsurface was then owned by Northern Pacific Railway and is now owned by Great Northern Properties; and

**WHEREAS**, in 2002, the Tribe agreed by settlement to dismiss its lawsuit against the United States, which alleged that the United States failed to protect the Reservation from the impacts of coal development, in return for several promises, including assistance in securing Tribal ownership of the aforementioned subsurface rights (as well as mitigation funding to address the impacts of coal development in areas adjacent to the Reservation); and

**WHEREAS**, to increase Tribal ownership and control of Reservation surface lands, the Tribe has purchased approximately 1000 acres of lands within its Reservation that were taken out of trust ownership status for various reasons; and

**WHEREAS**, the Tribe has purchased approximately 635 acres of land near Bear Butte, South Dakota, which the Tribe considers sacred ground for its members, as well as for members of other tribes; and

**WHEREAS**, funds from the 1992 Northern Cheyenne Water Rights Settlement Act are currently managed as the “Northern Cheyenne Trust Fund” by the Office of Special Trustee; and

**WHEREAS**, in 1999, the United States, State of Montana, and the Tribe resolved a dispute by settlement agreement that the Tribe is entitled to the earnings of that Fund and to transfer the Fund to the Northern Cheyenne Permanent Fund, but since then the Office of Special Trustee has refused to transfer the Fund and the Fund has not been prudently invested and managed by the Special Trustee; and

**WHEREAS**, to strengthen the Northern Cheyenne Tribe’s land base and economic opportunities and resolve the above-described injustices which have deprived the Tribe of the subsurface rights and adequate returns from the Northern Cheyenne Trust Fund, the Tribe seeks Congressional legislation which would:

- transfer title from Great Northern Properties (GNP) to the Northern Cheyenne Tribe of the 8 sections (approximately 5000 acres) of Reservation subsurface owned by GNP;
- in return, convey to GNP subsurface rights in federal subsurface tracts within the state of Montana containing approximately equal amounts of federal minerals;
- facilitate the Tribe’s acquisition from GNP of a royalty interest in royalties paid to GNP in the event revenue is someday generated from the leasing of those tracts;
- transfer title to approximately 1600 acres of Tribally-owned fee land to the United States to be held in trust for the benefit of the Tribe;

- clarify, consistent with the Tribe’s 1999 settlement with the United States and State of Montana, that the “Northern Cheyenne Trust Fund” managed by the Office of Special Trustee may be transferred to the Northern Cheyenne Tribe Permanent Fund; and

**WHEREAS**, the NCAI has previously strongly and fully supported earlier iterations of the proposed legislation (e.g., S. 647 and H.R. 1158) and urged for it be passed by Congress as promptly as possible.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI does hereby urge the United States Congress and the Obama Administration to enact the legislation described above, or similar legislation, as promptly as possible; and

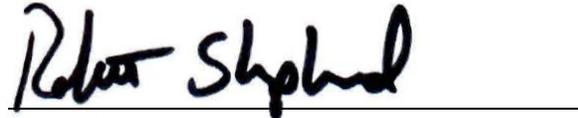
**BE IT FURTHER RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2013 Annual Session of the National Congress of American Indians, held at the Cox Business Center from October 13 - 18, 2013 in Tulsa, Oklahoma with a quorum present.

  
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President

**ATTEST:**

  
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Recording Secretary