



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SAC-12-035

TITLE: Support for Exempting Tribal Lands from the Application of General Federal Land Laws & Regulations

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 governments are developing, or have developed laws, regulations and systems of government which provide efficient oversight over tribal lands and the activities that occur within the boundaries of their land base; and

WHEREAS, despite the development of these laws and regulations, the federal government has various laws which apply generally to federal lands and projects, and these statutes are often construed by regulatory bodies and/or agencies to apply to Indian lands held in trust for the benefit of Indian tribes or their citizens by the United States; and

WHEREAS, the application of these general federal laws (*e.g.*, the National Environmental Policy Act, the State Workmen's Compensation Laws, *et al.*) – which do not state in the law or in the legislative history that they are intended to apply to Indian trust lands or activities within the Indian reservations – often provides significant barriers to economic development in Indian country by imposing lengthy reviews or other regulatory requirements on tribal lands; or interfere directly in the ability of the Tribe to make its own laws and be governed by them; and

WHEREAS, the application of these laws to Indian tribes and to trust lands within Indian reservations, without any specific statutory language mentioning tribal trust lands, violates the canons of federal Indian law construction, which state that where any ambiguity exists it must be resolved in favor of the Indian Tribes; and

WHEREAS, as separate sovereigns, recognized as such by Treaties, by the U.S. Constitution and by numerous decisions of the U.S. Supreme Court, more specific tribal regulatory laws, similar to that of states, should be given deference over a more general federal statutory framework.

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Tlingit

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

NOW THEREFORE BE IT RESOLVED, that the NCAI hereby urges Congress to pass a statute exempting Indian tribes and trust lands within an Indian reservation from federal laws of general applicability unless such law specifically states that it is applicable to Indian Tribes or lands held in trust by the United States for the benefit of Indian tribes or tribal citizens; and

BE IT FURTHER RESOLVED, that before this law is passed, its application to federal laws of general application that do not specifically apply to Indian tribes or tribal lands held in trust should be studied to determine its ultimate scope, and to ensure it does not interfere with programs or laws that are in fact beneficial to Indian tribes or lands held in trust by the United States for the benefit of Indian tribes or their citizens; 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 2012 Annual Session of the National Congress of American Indians, held at the Sacramento Convention Center from October 21-26, 2012 in Sacramento, California, with a quorum present.



President

ATTEST:



Recording Secretary