



NATIONAL CONGRESS OF AMERICAN INDIANS

THE NATIONAL CONGRESS OF AMERICAN INDIANS

RESOLUTION #SD-02-027

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Title: Essential Elements of Public Policy to Protect Native Sacred Places

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 and their way of life, 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 NCAI co-convened and participated in the gathering in San Diego, California, November 8 and 9, 2002, to consider strategies for protecting Native sacred places; and

WHEREAS, participants in the gathering considered public policy needed to protect Native sacred places and arrived at consensus on essential elements and objectionable elements of any such policy.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby adopt the consensus position of the gathering regarding essential elements and objectionable elements of any public policy to protect Native essential elements and will oppose proposed policy if it does not include these essential elements or if it includes these objectionable elements:

Essential Elements:

- Cause of action for protection of sacred places.
- Zero tolerance for desecration, damage, or destruction of sacred places.

- Recognition that sacred places are to be defined only as places that are sacred to practitioners of Native Traditional religions and that sacred places include land (surface and subsurface), water and air; burial grounds, massacre sites and battlefields; and spiritual commemoration, ceremonial, gathering, and worship areas.
- Early, meaningful consultation with traditional religious leaders and spiritual leaders.
- Recognition of and reliance on traditional religious leaders, tribal science, and oral history as authorities on Native sacred places.
- Respect for traditional religious tenets and tribal law regarding non-disclosure of confidential and private information about sacred places.
- Notice requirements, with burdens of proof on the developers, for proposed development within aboriginal territory of Native nations, in accordance with mapping to be developed by Native nations.
- Application to undertakings and actions on federal land, water and airspace, and to all other land, water, and airspace with a federal nexus.
- Provisions for protection of sacred places by transferring or conveying ownership title to the affected Native nations.
- Provisions for protecting the integrity of sacred places through agreements for management or co-management of or access to sacred places.
- Severe federal penalties for violations of sacred places.
- Recognition and application of tribal laws regarding arrests, penalties and imprisonment for violations of sacred places.
- Appropriations and allocations of land acquisition fund and other monies for acquisitions of sacred places and maintenance of the integrity of sacred places.

Objectionable Elements:

- Definition of the sacred
- Prioritizing sacred places
- Centrality or degree of significance requirements.
- Discrimination against non-federally recognized tribes with traditional sacred places to protect.
- So-called “mitigation” of impacts to sacred places.
- Reliance on previously published or recorded coerced or incomplete information regarding sacred places.
- “Discrete delineation” requirements; and

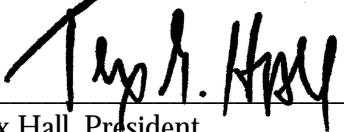
BE IT FURTHER RESOLVED, that the NCAI will utilize this same criteria to support or oppose state-based legislative efforts to protect sacred places; will support non-comprehensive congressional measures that will advance protection of sacred places and are consistent with this criteria (i.e. funding for tribal historic preservation offices); will oppose legislation with the potential to harm sacred places; and

BE IT FURTHER RESOLVED, that the NCAI will assure that its lobbying process is inclusive and reflects all segments of Native nations; 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 at the 2002 Annual Session of the National Congress of American Indians, held at the Town and Country Convention Center, in San Diego, California on November 10-15, 2002 with a quorum present.



Tex Hall, President

ATTEST:



Juana Majel, Recording Secretary

Adopted by the General Assembly during the 2002 Annual Session of the National Congress of American Indians, held at the Town and Country Convention Center, in San Diego, California on November 10-15, 2002.