



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ECWS-19-003

### **TITLE: Calling on the Secretaries of Commerce and the Interior to Conduct Meaningful Government-to-Government Consultation with Tribes Regarding the Proposed Endangered Species Act Rule Changes**

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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**, the Secretaries of Commerce and the Interior proposed three major rule changes to Endangered Species Act on July 25, 2018; and

**WHEREAS**, Secretarial Order 3206, "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act," requires the staff of departments Interior and Commerce to conduct government-to-government consultations when proposed Endangered Species Act regulations may affect Indian lands, tribal trust resources, or the exercise of American Indian tribal rights and Executive Order 13175 "Consultation and Coordination With Indian Tribal Governments" requires all federal agencies to establish regular and meaningful government-to-government consultation and collaboration with tribal nations in the development of Federal policies that have tribal implications; and

**WHEREAS**, tribal trust resources and tribal rights are threatened by the proposed July 25, 2018 rule changes; and

**WHEREAS**, tribal leaders have expressed that proposed rule changes threaten tribal trust resources and tribal rights through public comment, as Agencies have not appropriately used tribal consultation; and

**WHEREAS**, tribes requesting government-to-government meetings have been offered staff-to-staff meetings; and

**WHEREAS**, additional requests for government-to-government meetings have been repeatedly delayed; and

**WHEREAS**, Agency staff have indicated that Agency directives are to propose final rules in early 2019; and

**WHEREAS**, Agency staff cannot confirm that agencies will fulfill tribal trust responsibilities by adequately reviewing and responding to tribal concerns prior to proposing final rules; and

**WHEREAS**, the Departments of Commerce and Interior have federal trust responsibilities to take into consideration the impacts of their actions and policies under the Act on Indian use of listed species for cultural and religious purposes; and

**WHEREAS**, the Departments of Commerce and Interior are failing to meet this fundamental obligation to tribal nations; and

**WHEREAS**, NCAI believes that agencies' consultation practices undermine the protection of threatened and endangered species, which overlap with trust resources and treaty rights; and

**WHEREAS**, NCAI is concerned that absent meaningful government-to-government consultation, the agencies will prepare a final rule which does not protect Tribal trust resources and Tribal treaty rights; now

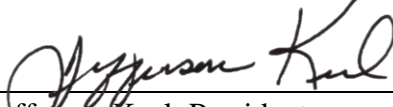
**THEREFORE BE IT RESOLVED**, that NCAI does hereby call upon the Secretaries of Commerce and Interior to direct their staffs to immediately respond to tribal concerns associated with the July 25, 2018 proposed Endangered Species Act rule changes; and

**BE IT FURTHER RESOLVED**, that NCAI calls upon the Secretaries of Commerce and Interior to immediately begin meaningful government-to-government tribal consultation to hear tribal leadership's concerns and address those concerns in a manner clearly stating the rationale for the recommended final decision and explain how the decision relates to the Services' trust responsibilities

**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 Executive Committee at the Executive Council Winter Session of the National Congress of American Indians, held at the Capital Hilton, February 12, 2019, with a quorum present.

  
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Jefferson Keel, President

ATTEST:

  
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Juana Majel Dixon, Recording Secretary