



2017 Winter Convention Grand Mound, WA

RESOLUTION #17 - 11

“CALLING ON THE FEDERAL GOVERNMENT TO ENSURE “FREE, PRIOR, AND INFORMED CONSENT” FROM AFFECTED TRIBES AT THE EARLIEST STAGE OF FEDERAL UNDERTAKINGS”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest 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 rights secured under Indian Treaties, Executive Orders, and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise to promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

WHEREAS, the unprecedented showing of support for the Standing Rock Sioux Tribe's struggle against the Dakota Access Pipeline has been in part due to the long history of infrastructure projects approved by the Federal government over the objections of federally recognized tribes; and

WHEREAS, previous infrastructure projects have brought great harm to federally recognized tribes, peoples, lands, waters, treaty rights, and sacred places; and

WHEREAS, federally recognized tribes throughout the country continue to struggle to protect their lands, resources, sacred sites, and cultures in Federal permitting processes that too frequently authorize projects despite their threat to Tribes; and

WHEREAS, federally recognized tribes exercise jurisdiction over their retained lands and resources, both on and off the reservation; and

WHEREAS, federally recognized tribes are not merely another “stakeholder” or “special interest” in infrastructure permitting processes; and

WHEREAS, federal permitting agencies nonetheless tend to treat federally recognized tribes as members of the public, entitled to only limited information and the ability to submit comments rather than incorporating them into decision-making processes as non-Federal governmental entities; and

WHEREAS, additional policy guidance should emphasize the United States’ substantive legal responsibilities to federally recognized tribes and the process of meaningful and effective consultation as a required activity to ensure consideration and accommodation of these substantive rights; and

WHEREAS, the Federal trust responsibility to federally recognized tribes is recognized by the courts, Congress, and the Executive Branch, which runs across all branches of government, and each agency is responsible for upholding the United States’ unique obligations to federally recognized tribes; and

WHEREAS, federally recognized tribes must be included in infrastructure decision-making from the very earliest stages, including being involved in key decisions regarding priorities for development; and

WHEREAS, in addition to being included early in the process on infrastructure-related projects, meaningful consultation should always be undertaken with the goal of reaching consensus; without this goal, there is no actual consultation, rather, the federal government merely notifies federally recognized tribes of their intentions and catalogues their concerns; and

WHEREAS, the United States has accepted the United Nations Declaration on the Rights of Indigenous Peoples calling for *free, prior, and informed consent* of federally recognized tribes affected by threats or damages to traditional lands, territories or waters, before activities are authorized by law or administrative action; now

THEREFORE BE IT RESOLVED, ATNI calls upon the United States to honor the sovereignty of federally recognized tribes by implementing the requirement of Free, Prior and Informed Consent of federally recognized tribes affected by threats or damages to traditional lands, territories or waters, before activities are authorized by law or administrative action; and

BE IT FURTHER RESOLVED, that ATNI does hereby call upon the President to adopt an Executive Order (augmenting Executive Orders 13007, 13175, and 13647) that requires the United States to do the following for any Federal undertaking or any streamlined or “fast-track” infrastructure project, on or outside of any Indian Reservation:

- (a) Identify all federally recognized tribes that could possibly be adversely affected by direct or indirect impacts of the proposal, at the earliest time the proposal is being considered by the Federal Government, and notify all federal, state or local agencies or tribes known to be involved in review of the proposal; and
- (b) Obtain the free, prior, and informed consent of affected federally recognized tribes if the proposal has any potential to infringe upon or endanger indigenous, inherent, or treaty-protected resources, human health, tribal economies, sacred places or traditional life ways, as required through treaties, executive orders or other identifiable right and customary international law; and
- (c) Preclude the streamlining or fast-tracking of reviews and public financing for infrastructure or economic development proposals that have any potential to infringe upon or endanger indigenous, inherent, or treaty-protected resources, human health, tribal economies, sacred places or traditional life ways; and
- (d) Always include a robust and detailed cumulative impacts review that considers both the direct and indirect impacts of multiple projects and plans in a multi-state geographic region for their combined potential adverse impacts, including the entire chain of events, from commencement or construction, to final delivery or operation, and final use by the end-user; and
- (e) Acknowledge the report by the White House Council on Native American Affairs entitled *Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions* (January 2017), containing the analysis of the U.S. Department of the Interior, Department of the Army and Department of Justice (the “Consultation Report”); and
- (f) Augment the Consultation Report with the standard under (b), above; and

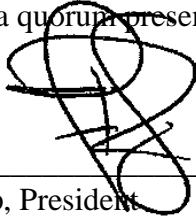
BE IT FURTHER RESOLVED, that ATNI calls upon the Federal Government to Re-affirm to Federal Authorities that tribes are not public entities or stakeholders; and to allow for open and transparent information exchange with federally recognized tribes in relation to proposed infrastructure related projects at the earliest stage possible in the process without use of Freedom of Information Act requests, delays or costs; and

BE IT FINALLY RESOLVED, that ATNI calls upon the Federal Government to ensure that federally recognized tribes have the resources necessary to fully review and participate in any proposed infrastructure related permitting processes that may impact lands or resources to

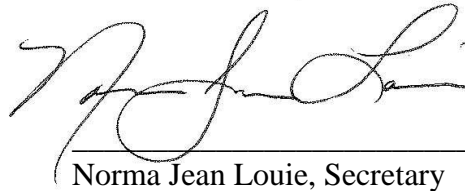
the tribes, including without limitation the cost of obtaining data necessary to prepare and provide a meaningful analysis and response to the proposal.

CERTIFICATION

The foregoing resolution was adopted at the 2017 Winter Convention of the Affiliated Tribes of Northwest Indians, held at Great Wolf Lodge in Grand Mound, Washington January 23-26, 2017, with a quorum present.



Fawn Sharp, President



Norma Jean Louie, Secretary