



## **2017 Mid-Year Convention Portland, OR**

### **RESOLUTION #17 - 36**

#### **"CALLING FOR CONSULTATION WITH TRIBES ON THE PROPOSED TESORO SAVAGE VANCOUVER ENERGY PROJECT AND FOR REVISION OF REGULATORY PROCESS"**

##### **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 Energy Facility Site Evaluation Council (EFSEC) for Washington State is the state regulatory authority with jurisdiction over the siting, construction, operation, and decommissioning of certain energy projects pursuant to RCW Chapter 80.50; and

**WHEREAS**, EFSEC is a state administrative board comprised of a Chairman appointed by the Governor and representatives from five state agencies; and

**WHEREAS**, the Council is augmented by representatives from the particular counties, cities, or port districts where potential projects may be located, as well as additional state agencies that can opt-into the review of a new proposal; and

**WHEREAS**, EFSEC conducts administrative proceedings on energy projects and makes recommendations to the Governor; and

**WHEREAS**, Tribes are not listed as eligible entities to serve on EFSEC; and

**WHEREAS**, the Governor of the State of Washington is the final decision maker associated with the EFSEC process; and

**WHEREAS**, ATNI Resolution #16-05 and the National Congress of American Indians Resolution #SPO-16-025 calls for Tribes to be represented on EFSEC or State Energy Councils; and

**WHEREAS**, the State of Washington has yet to provide for Tribal representation on EFSEC; and

**WHEREAS**, through the Centennial Accord, treaties, statutes, executive orders, judicial decisions, and other means, Washington State has a unique obligation to Tribes that requires meaningful consultation and collaboration with respect to policies or other actions that have implications to tribes, including actions taken pursuant to the EFSEC process; and

**WHEREAS**, pursuant to this obligation under the Centennial Accord, the Governor of Washington should conduct consultation with tribes on major energy projects and is not prohibited from doing so by RCW 34.05.455, and RCW 42.36.060, when a memorandum stating the substance of all written or oral communications and the identity of the participants are placed on the record and parties to the proceeding are allowed to submit written rebuttals on the record; and

**WHEREAS**, ATNI Tribes believe that a lack of meaningful consultation with Tribes during the EFSEC process may lead to an incomplete and flawed recommendations by EFSEC that could unlawfully place Tribal rights and interests at risk in the process; and

**WHEREAS**, EFSEC is currently considering Application #2013-01, the Tesoro Savage Vancouver Energy Project and will soon make a recommendation of approval or denial to the Governor of Washington; and

**WHEREAS**, ATNI adopted Resolution #17-012 opposing the Tesoro Savage Oil Terminal Project and other fossil fuel energy projects; and

**WHEREAS**, EFSEC did not meaningful consult with all Tribes who have asserted they will be adversely affected by the proposal if approved; and

**WHEREAS**, meaningful consultation with Tribes includes, but is not limited to, submittal and review of Tribal information, leadership to leadership meetings with each Tribe, and follow-up by the state to address concerns relayed by Tribes in a substantive manner; now

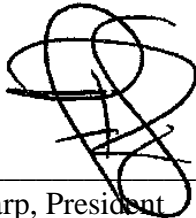
**THEREFORE BE IT RESOLVED**, ATNI calls on the Governor of Washington and EFSEC to include government-to-government consultations with affected Tribes as part of the record of decision in all EFSEC siting decisions; and

**BE IT FURTHER RESOLVED**, that ATNI does hereby call on the Governor of Washington and EFSEC to provide notice of and conduct formal government-to-government consultation with any affected Tribe on the proposed Tesoro-Savage Port of Vancouver, WA oil terminal after EFSEC issues its recommendation and prior to the Governor issuing a final decision, under RCW 80.50.100, including, if necessary, re-opening the adjudicative proceeding as authorized by WAC 463-64-040 and RCW 80.50.100(3)(b); and

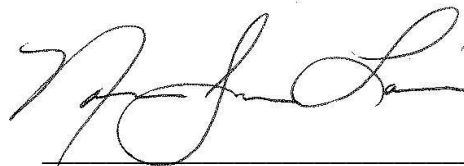
**BE IT FINALLY RESOLVED**, that ATNI calls on the Governor of Washington to conduct a reassessment of the EFSEC process, as permitted by RCW 80.50.320, to revise the process to allow for early and meaningful consultation with any affected federally recognized Tribe.

#### **CERTIFICATION**

The foregoing resolution was adopted at the 2017 Mid-Year Convention of the Affiliated Tribes of Northwest Indians, held at the Double Tree by Hilton - Portland, Oregon, on May 23-26, 2017, with a quorum present.



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Fawn Sharp, President



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Norma Jean Louie, Secretary