



2023 Midyear Convention Worley, Idaho

RESOLUTION #2023 – 36

“Opposition to Encroachment on Tribal Sovereignty and Treaty Rights by Washington’s SB 5126, Climate Commitment Act, and HB 1091, Clean Fuel Standard, and Need for Immediate Consultation with Tribes”

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, Indian nations and tribes are the original American sovereigns that predate the United States, vested with sovereign power derived from status as indigenous nations with the inalienable right to self-determination; and

WHEREAS, on May 17, 2021, Washington State Governor, Jay Inslee, signed into law the following state revenue generating climate initiatives through the imposition of what the laws call “fees”:

- SB 5126, the Climate Commitment Act (“CCA”)
- HB 1091, the Clean Fuel Standard (“CFS”); and

WHEREAS, on May 17, 2021, Governor Jay Inslee broke trust with Tribal Nations when he unilaterally vetoed protections for tribal sovereignty, sacred sites, cultural resources, archaeological sites, and burial grounds from the CCA; and

WHEREAS, Governor Jay Inslee’s veto struck down the requirement for tribal consent for a project or activity that is funded in whole or in part from the revenue generated under the CCA that would adversely impact cultural resources, archaeological sites, or sacred sites on tribal lands and lands within which a tribe or tribes possess rights reserved by treaty; and

WHEREAS, On January 1, 2023, the CFS and CCA went into effect with the intent of reducing greenhouse gas emissions across the state through the imposition of state “fees” or what are best described as “taxes” related to petroleum products; and

WHEREAS, the CCA expressly exempts from the revenue generating “fees” or “taxes” the following industries and activity:

- Aviation fuels;
- Watercraft fuels supplied in Washington and combusted outside of Washington;
- Coal-fired electric generation facilities;
- Combustion of biomass or biofuels;
- Agriculture, and fuels used for the purpose of transporting agricultural products on public highways; and
- Emissions from fuels exported out of Washington; and

WHEREAS, the State of Washington and CCA fail to acknowledge that the state cannot assert jurisdiction over or impose “fees” or “taxes” on Tribal Nations and activity on tribal lands and lands within which a tribe or tribes possess rights reserved by treaty; and

WHEREAS, although likely unintended, the hasty roll-out of the CFS and CCA has created significant confusion over their lack of application in Indian Country, and as of January 1, 2023, Tribal Nations, their enterprises and communities are improperly being assessed CFS and CCA “fees” or “taxes” on petroleum products distributed and sold to Tribes within their Indian Country; and

WHEREAS, Tribes are currently being assessed the following state “fees” or “taxes” on petroleum products distributed and sold to Tribes within their Indian Country:

- CFS 1.5 cents or more per gallon on gas and diesel;
- CCA .60 cents or more per gallon of gas;
- CCA .70 cents or more per gallon of diesel;

- Similarly, the price of natural gas, propane, and other petroleum products have also increased with CFS and CCA “fees” or “taxes;” and

WHEREAS, Tribal Nations have improperly been assessed and paid millions of dollars in state CFS and CCA “fees” or “taxes” since January 1, 2023, in violation of tribal sovereignty and federal law; and

WHEREAS, the Washington State Department of Ecology has failed to properly inquire as to how these “fees” or “taxes” are improperly falling – whether by design or application – on Tribal Nations or how these climate policies may improperly encroach on tribal sovereignty and burden existing treaty rights; and

WHEREAS, as the original caretakers of this land, Tribal Nations and indigenous peoples revere the protection of our natural resources, the voiceless, and those yet unborn. Since time immemorial, indigenous land stewardship and being in relationship with the land has been an essential way of life. While Tribal Nations certainly respect Washington’s desire to mitigate some of the harm caused by non-tribal development and the associated reliance of fossil fuels, it is unconscionable for the State to use these new climate policies as a vehicle to encroach on tribal sovereignty and to unlawfully impose new state revenue generating “fees” or “taxes” on petroleum products distributed and sold to Tribes within their Indian Country; and

WHEREAS, the fight to protect our planet and natural resources must be centered around indigenous wisdom and traditional ecological knowledge that has stood for thousands of years, and not aim to create momentary climate policies that harm the culture, sovereignty, health, and economies of the original caretakers of this land; and

WHEREAS, the State of Washington should take action to properly integrate traditional ecological knowledge in its climate policy initiatives and acknowledge that Tribal Nations are inherently excluded from the civil regulatory impacts and revenue generating “fees” or “taxes” associated with the CFS and CCA on petroleum products distributed and sold to Tribes within their Indian Country; now

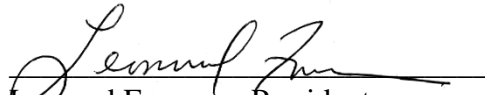
THEREFORE, BE IT RESOLVED that ATNI calls upon:

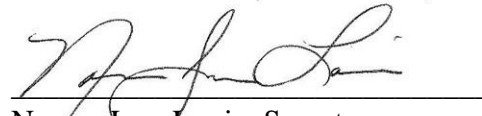
1. The State of Washington to respect tribal sovereignty and honor the government-to-government relationship with Tribal Nations and require free and informed prior consent by Tribal Nations for any project or activity that is funded in whole or in part from the revenue generated under the CCA that would adversely impact cultural resources, archaeological sites, or sacred sites on tribal lands and lands within which a tribe or tribes possess rights reserved by treaty.
2. Governor Jay Inslee to engage in meaningful government-to-government discussions with Tribal Nations regarding the impacts of the CFS and CCA on tribal sovereignty, treaty rights, and federal law.
3. The Department of Ecology to acknowledge that Tribal Nations are excluded from the CFS and CCA, and direct the fuel industry to cease improperly assessing

CFS and CCA “fees” or “taxes” on petroleum products distributed and sold to Tribes within their Indian Country, and work with Tribal Nations to return all CFS and CCA “fees” or “taxes” improperly imposed on fuel sold to Tribal Nations.

CERTIFICATION

The foregoing resolution was adopted at the 2023 Mid-Year Annual Convention of the Affiliated Tribes of Northwest Indians, held at the Coeur d’Alene Casino Resort - Hotel, Worley, Idaho, on May 8-11, 2023, with a quorum present.


Leonard Forsman, President


Norma Jean Louie, Secretary