

2009 Winter Conference

Tulalip, Washington

RESOLUTION #09 - 25

“FEE TO TRUST LAND ACQUISITIONS”

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 descendents rights secured under Indian Treaties and benefits to which we are entitled under the laws and constitutions 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 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 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 ATNI; and

WHEREAS, in 1881, there were approximately 156 million acres of Indian lands and today, because of the allotment act, homesteading, railroads, forced fee policies, and illegal sales of Indians lands, and termination of many tribes in the 1950's and 1960's; and

WHEREAS, the Indian Reorganization Act of 1934 (IRA) authorized “The Secretary of the Interior to acquire lands for Indians”..., “the taking of acquired lands into trust to avoid their being subject to taxation”, and further authorized the Secretary “to restore remaining surplus lands on reservations back to tribal ownership...”; and

WHEREAS, the United States has not lived up to its responsibility to implement the IRA provisions to restore the reservation land base; to reestablish tribal jurisdiction over reservation lands; and encourage tribal self-determination and tribal self-sufficiency; and

WHEREAS, the fee to trust process available to federally recognized tribes has been the only universally recognized path to the reestablishment of sovereign tribal jurisdiction over lands that have passed into fee status and have repurchased by the tribe; and

WHEREAS, the current fee to trust backlog has resulted in tribes paying burdensome amounts of property taxes and a continuation of jurisdictional problems as tribes await the placement of these lands into trust status; and

WHEREAS, federal court decisions have gone back and forth concerning the authority of state governments to assess taxes and assert jurisdiction over lands reacquired in fee by tribes within their reservation boundaries; and

WHEREAS, it is unjust to force tribes to comply with the provisions of 25 CFR Part 151 for lands reacquired by a tribe within its reservation, requiring tribes to respond to the jurisdictional concerns of neighboring municipalities, when on-reservation lands are by definition lands which are being reacquired by the tribal government; and

WHEREAS, with Congressional action, tribes could reestablish appropriate tribal jurisdiction over fee lands within reservation boundaries immediately upon the reacquisition of such lands in fee by the tribe without going through the time and expense of the 25 CFR 151 process. This status would allow for tribal jurisdiction and exemption from state taxation and state jurisdiction for these lands without trust status, thereby not increasing the obligation of the BIA; and

WHEREAS, in addition to the necessity to repurchase lands within reservations, many tribes are either landless or have reservations which are too small to accommodate the needs of those tribes. For most tribes self-determination and self-sufficiency are not attainable without the establishment of jurisdiction over additional lands. Therefore, those tribes must seek addition lands outside the boundaries of their reservations; and

WHEREAS, the Federal government has property, such as former military bases, Bureau of Land Management, Bureau of Reclamation, and National Forest Service lands, which are slated for disposal. Often these lands are adjacent to reservations or contain significant cultural sites or resources such that tribes wish to acquire these lands. Given that the lands are in federal ownership at the time of disposal, there should be an expedient process by which tribes can acquire those lands through a trust-to-trust transaction; and

WHEREAS, many individual Indians have also suffered losses of trust lands or interests in trust land as a result of the discriminatory loan policies of the Department of Agriculture (USDA) as espoused in *Keepseagle, et al. V. Schafer*; and

WHEREAS, the opportunity for every federally recognized tribe to have land taken into trust for its benefit has been called into question by the Supreme Court's review of *Carcieri v. Kempthorne*; and

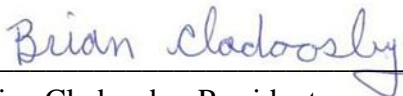
WHEREAS, it is within the authority of Congress to amend the IRA and clarify that the fee to trust process is available to all federally-recognized tribes; to clarify the tax and jurisdictional status of fee lands within the exterior boundaries of reservations; and to create the statutory authority to expedite the transfer of federal lands to Indian tribes; now

THEREFORE BE IT RESOLVED, that Affiliated Tribes of Northwest Indians calls upon Congress to hold summits and hearings to address the following issues:

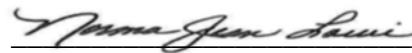
1. Reaffirmation of the Indian Reorganization Act.
2. The need to address taxation of fee lands owned by tribes and individuals which are within the exterior boundaries of the reservation and the need to alleviate jurisdictional conflicts of such lands.
3. Expediting the process of federal transfers of lands to Indian tribes.
4. Establish a congressional process to document the loss of individual trust allotments that occurred through the establishment of Competency Commissions beginning in 1914 and the use of forced fee patents beginning in 1906, whereby thousands of allotments were lost to land speculators and land grafters; and to facilitate a process whereby the allotments which were lost during the aforementioned processes, be returned to trust status upon reacquisition without the current requirement of state and/or county comments.
5. Provide for adequate fee to trust staffing and training for BIA and Tribal Realty offices responsible for completion of the fee to trust application process.
6. Enforcement of the moratorium on acceleration and foreclosure proceedings by the USDA enacted in May 22, 2008 provided in P. L. 110-234, the Food, Conservation, and Energy Act of 2008.

CERTIFICATION

The foregoing resolution was adopted at the 2009 Winter Conference of the Affiliated Tribes of Northwest Indians, held at the Tulalip Resort and Casino, Tulalip, Washington on February 16-19, 2009 with a quorum present.



Brian Cladoosby, President



Norma Louie, Secretary