



2009 Annual Conference Tacoma, Washington

RESOLUTION #09 - 50

“CALL FOR WASHINGTON STATE TO COMPLY WITH STATE CONSTITUTIONAL DISCLAIMER”

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 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 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, the United States Constitution reserved the governance over Indian Affairs as a matter of national, plenary power superior to that of the individual states; and

WHEREAS, under Article IV of the Constitution new states could be admitted into the Union, on an equal footing, and that this required said new states to “Disclaim Jurisdiction over Indian Affairs” as a price for Union membership, and that the process to establish said new territories and eventual new states was established by the Northwest Ordinance (1787) which required that the utmost honor and good faith shall be extended to the Indian Tribes; and

WHEREAS, individual states such as North Dakota, South Dakota, Wyoming, Idaho, Montana, Washington, and Alaska were required to institute this “Disclaimer” right into the proposed state constitutions before they could be confirmed as an equal member of the Union; and

WHEREAS, Washington State included such “disclaimer” as Article XXVI of the Washington State Constitution, and said constitution was ratified in 1889 and has included this disclaimer ever since without proper amendment to remove or modified the language of said article; and

WHEREAS, during the Termination Era, the United States Congress enacted Public Law 280 that offered to individual states the option to assume some but not complete jurisdiction over Indian Reservations provided they amended their territorial legislation or state constitution; whichever contained the Disclaimer of Jurisdiction; and

WHEREAS, Washington State alleged that it lawfully assumed partial jurisdiction over Indian Reservations located within the exterior boundaries of the State of Washington, by legislative enactment rather than by proper amendment to the Washington State Constitution, and that such action in contravention to the Canon of Construction of Written Constitutions and does damage to the Popular Sovereignty established by the citizens of the State of Washington when they ratified said Constitution; and

WHEREAS, the State of Washington has superceded its lawful authority to interfere with and intervene in the social and economic development of the Indian reservations and Indian tribes, in contravention to the state constitution, and this is most reflected in its constant attempts to extend its taxation authority without US congressional authorization that would be in lawful furtherance and implementation of treaties-made (Article VI, Cl. 1 and Cl. 2) and an exercise of the Indian Commerce Clause (Article I, Section 8, Clause 3); and

WHEREAS, it is recognized by the Indian tribes, located within the exterior boundaries of the State of Washington, that neither the State Supreme Court nor the State Legislature have taken action to force state compliance with the Constitution, and the Governor has also continued to ignore this direct state constitutional negative that prohibits the exercise of state powers inside the boundaries of the Indian Reservations; and

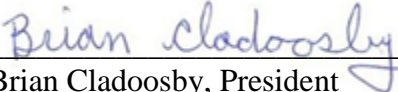
WHEREAS, the Indian tribes have been significantly and unlawfully damaged by the State of Washington collecting unlawful taxes inside the boundaries of said Indian Reservations, and has suffered additional damages by all actions and attempts by state and local government (city and county) to exercise zone and regulatory powers over Indians affairs inside the reservation boundaries, and that these actions are contrary to the constitutional promise the State, and its citizens, made in order to secure membership into the union; now

THEREFORE BE IT RESOLVED that ATNI requests that Governor Gregoire meet and consult with the Indian Tribes in government-to-government consultation to resolve this question of unconstitutional actions of the State, and the questions of damages done to the Indian Tribes and their governments, economies, and tribal peoples within 60 days of said resolution; and


BE IT FURTHER RESOLVED that ATNI, with membership from the States of Washington, Oregon, California, Alaska, Montana, Nevada, and Idaho pledge to support the Tribes located inside the exterior boundaries of the State of Washington, in their attempt to ensure the State of Washington to comply with its written constitution.

CERTIFICATION

The foregoing resolution was adopted at the 2009 Annual Conference of the Affiliated Tribes of Northwest Indians, held at the Greater Tacoma Convention & Trade Center, Tacoma, Washington on September 21 - 24, 2009 with a quorum present.



Brian Cladoosby, President



Norma Jean Louie, Secretary