



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #RAP-10-037

TITLE: Supporting the *Cobell v. Salazar* Settlement and Requesting Additional Considerations

WHEREAS, we, the members of the National Congress of American 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 the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the national class action case of *Cobell v. Salazar* has been pending since 1996 and the Plaintiffs have demonstrated gross mismanagement of Indian trust fund accounts; and

WHEREAS, the Plaintiffs and the United States have entered into a settlement agreement in the amount of \$3.4 billion representing the best achievable resolution for plaintiffs' accounting, restitution and damages claims after considering the risks associated with litigation, and the decision by the Court of Appeals in *Cobell XXII* to require the government to provide only for "the best accounting possible, in a reasonable time, with the money that Congress is willing to appropriate," and concluding that "our precedents do not clearly point to any exit from this complicated legal morass;" and

WHEREAS, \$1.4 billion of the \$3.4 billion total settlement amount will be set aside for the resolution of the historical accounting and trust mismanagement claims of the individual landowners; and

WHEREAS, \$2 billion of the \$3.4 billion total settlement amount will be set aside to address the longstanding challenge of the increasing fractionation of individual Indian lands through the purchase of fractionated lands that will be restored to the land of the Indian tribe, thus placing additional funds in the hands of individual Indians and allowing the land to be put to more productive use; and

WHEREAS, a \$60 million scholarship fund will be created from the \$2 billion set aside for land consolidation, which will support post-secondary academic and vocational scholarships for Indian youth; and

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WHEREAS, a Secretarial Commission will be created to recommend additional trust reforms and to perform an audit of the Trust, which provides a mechanism that will minimize the possibility of future mismanagement of the accounts; and

WHEREAS, the policy of the NCAI since 2006, as unanimously adopted in Resolution SAC-06-033, has been to support a global settlement of the *Cobell* litigation; and

WHEREAS, tribal leaders strongly desire to achieve greater justice for account holders, and move past the embattled litigation; and the Cobell Settlement is the first step in resolving longstanding trust mismanagement claims and moving forward on substantive reforms to the future of the trust land system; and

WHEREAS, tribal governments greatly appreciate the Senate Committee on Indian Affairs and the House Natural Resources Committee for working with tribal leaders to identify areas where action by Congress and the Administration can ensure greater fairness for Indian land owners and improve Indian land management.

NOW THEREFORE BE IT RESOLVED, that the NCAI strongly supports the settlement and urges Congress to immediately pass the authorizing legislation that will implement the *Cobell* settlement; and

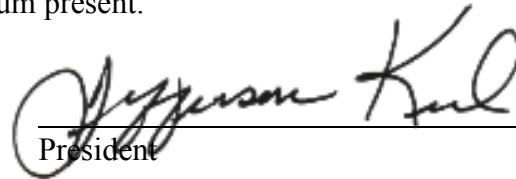
BE IT FURTHER RESOLVED, that NCAI desires to see the following changes incorporated in the settlement agreement by the appropriate forum, whether it is Congress, the Administration and the Plaintiffs, or the federal courts:

- Tribal participation in planning, designing, and implementing the \$2 billion land consolidation program including allowing tribes to contract or compact program funds without any time limit for the expense of this money;
- Oversight to assure that Indian land owners are treated fairly and equitably under the distribution and to consider additional action if necessary.
- Qualifications of the bank to administer the distribution;
- Fairness in attorney fees and incentive payments to ensure that they do not unduly diminish the restitution to individual account holders;
- Consideration of environmental damages to Indian lands and remediation of environmental damages;
- Impartial administration of the scholarship fund and concurrence with tribal leaders on the appointment of the Board of Trustees;
- Separate legislation to restore tribal control over land management and land consolidation, to diminish delays in land transactions, and to strengthen the federal trust responsibility to support economic development; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of the NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2010 Mid-Year Session of the National Congress of American Indians, held at the Rushmore Plaza Civic Center in Rapid City, South Dakota on June 20-23, 2010, with a quorum present.



President

ATTEST:



Recording Secretary