

**TESTIMONY OF THE NATIONAL CONGRESS OF AMERICAN INDIANS
ON
S. 703, THE “HELPING EXPEDITE AND ADVANCE RESPONSIBLE
TRIBAL HOMEOWNERSHIP ACT”**

**UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS
APRIL 14, 2011**

On behalf of the National Congress of American Indians, thank you for the opportunity to provide our views on this important legislation. NCAI supports the legislation, and we appreciate today’s hearing because it will draw more attention to the bill. NCAI particularly appreciates the Committee’s attention to the longstanding problems of land management and economic development on Indian lands.

The bill has been titled as an Indian housing bill, but it is broader legislation. It is essentially a set of amendments that would expand the Navajo Leasing Act of 2000 to all federally recognized tribes. NCAI strongly supports the bill because it promotes tribal self-determination in the management of tribal lands, and would allow tribes to lease their own lands without the delay and bureaucracy of approval within the Bureau of Indian Affairs. The legislation is also optional; each tribe would decide for itself whether or not to take advantage of the Act. Many tribes desire to manage their own lands and promote economic development, and are in the best position to decide for themselves whether this Act suits their needs. We attach NCAI Resolution PSP-09-016 in support of the legislation.

The provisions of the Navajo Leasing Act, 25 U.S.C. 415(e), and this legislation are straightforward:

- 1) Leases on tribal land do not require approval if they are executed under tribal government regulations approved by the Secretary of Interior;
- 2) Tribal leasing regulations must be consistent with the Secretary’s leasing regulations, and must provide for an environmental review process;
- 3) The terms of tribal leases can be expanded considerably – up to 25 years with 2 renewals for business or agricultural leases, and up to 75 years for public, religious, educational, recreational or residential leases;
- 4) Direct payment to the tribe is permitted, but the tribe must provide documentation of lease payments to the Secretary;
- 5) The United States is not liable for losses sustained by any party to a lease executed pursuant to tribal regulations;

- 6) Interested parties may petition the Secretary to remedy any violations of the tribal leasing regulations.

NCAI supports the legislation and offers one suggestion for clarification. Under the trust responsibility section of the legislation, it states that the “The United States shall not be liable for losses sustained by any party to a lease executed pursuant to tribal regulations under paragraph (1).” We do not believe that such a broad waiver of federal liability was intended, because it could include situations unrelated to the lease. For example, a surveying error by the Bureau of Land Management could result in a trespass by a third party. We believe the intention here is to exempt the U.S. from liability for the terms of the lease, because the Secretary would have no role in reviewing those terms. We would urge the Committee to consider narrowing the federal waiver of liability appropriately.

As a final note, NCAI supports this legislation because it is an extension of existing law that can be made rapidly available to encourage tribal self-determination in surface leasing and because it is voluntary to each tribe. In the future we would encourage Congress and the Administration to continue to develop more comprehensive legislation that will support tribal self-determination in the management of tribal lands.

S. 636, A Bill to Provide the Quileute Tribe with Tsunami and Flood Protection

This hearing also includes consideration of S. 636, legislation to assist the Quileute Tribe. NCAI also supports this legislation, and we attach our recent resolution. The citizens of the Quileute Tribe have lived on the northwest coast for thousands of years. Due to current boundary limitations the tribal population resides within a coastal flood plain which includes a community school, elder center, and tribal administrative buildings. Passage of S. 636 would enable the Tribe to move up to a safer location.

Quileute citizens have expressed the need for an immediate resolution following the tsunami that caused catastrophic damage to Japan. The geographical situation of Quileute people creates similar risks for disastrous events, and we urge Congress to act now while the need for action is fresh in our minds.

NCAI views passage of S. 636 as another step in fulfilling the federal trust responsibility and inclusion of native peoples in the national emergency preparedness that all citizens should have in this great country. Thank you for your favorable support for this timely legislation.

Conclusion

The primary purpose of both bills is to empower tribes to control their own lands and NCAI supports this purpose very strongly. We thank you for your diligent efforts on behalf of Indian country on these and many other issues.



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #PSP-09-016

TITLE: In Support of Amending the Indian Long Term Leasing Act to Spur Housing Development in Native American Communities

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SOUTHWEST
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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 Indian Long Term Leasing Act of 1955 (“ILTLA”) as currently written requires the Secretary of the Interior to review and approve leases for residential, commercial and other purposes for parcels of land on Indian reservations; and

WHEREAS, the ILTLA process can become lengthy, taking many months or longer, which often hinders the development of housing and related infrastructure development; and

WHEREAS, under ILTLA, certain Indian tribes that have been authorized to negotiate and execute leases of their tribal trust lands with the requirement that the leases be reviewed or approved by the Secretary of the Interior have been successful in spurring housing and community development in their communities; and

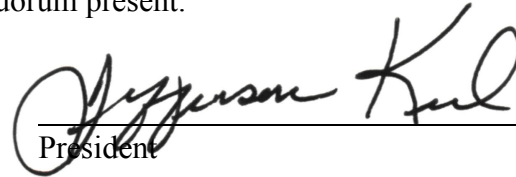
WHEREAS, reform of the leasing process under ILTLA will remove barriers between Native American families and homeownership.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby support reforming Federal leasing requirements to encourage homeownership and business development in Native American communities by allowing tribes to enact their own leasing regulations and approve residential leases and leasehold mortgages; and

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

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2009 Annual Session of the National Congress of American Indians, held at the Palm Springs Convention Center in Palm Springs, California on October 11-16, 2009, with a quorum present.



President

ATTEST:



Recording Secretary



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #EC-11-001

TITLE: Support of Federal Legislation to Protect the Quileute People from Tsunami and To Express Sympathy to the Japanese Tsunami Victims

EXECUTIVE COMMITTEE

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Jefferson Keel
Chickasaw Nation

FIRST VICE-PRESIDENT
Juana Majel Dixon
Pauma Band - Mission Indians

RECORDING SECRETARY
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Cara Cowan Watts
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GREAT PLAINS
Patricia "Patti" Douville
Rosebud Sioux Tribe

MIDWEST
Marge Anderson
Mille Lacs Band of Ojibwe

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NORTHWEST
Brian Cladoosby
Swinomish Tribal Community

PACIFIC
Don Arnold
Scotts Valley Band of Pomo Indians

ROCKY MOUNTAIN
Scott Russell
Crow Tribe

SOUTHEAST
Larry Townsend
Lumbee Tribe

SOUTHERN PLAINS
Robert Tippeconnic
Comanche Nation

SOUTHWEST
Joe Garcia
Ohkay Owingeh

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 Quileute Indian Tribe is an Indian Tribe organized under the Indian Reorganization Act, and the Quileute Tribal Council is the duly constituted governing body of the Quileute Indian Tribe by authority of Article III of the Constitution and By-laws of the Quileute Indian Tribe approved by the Secretary of the Interior on November 11, 1936; and

WHEREAS, the Quileute Indian Reservation is located on the western coast of the Olympic Peninsula, with the Pacific Ocean to the west and surrounded by the Olympic National Park on the north, south and east; and

WHEREAS, most of the Quileute Reservation village of La Push is located within the coastal floodplain, with the Tribal administrative buildings, the school, the elder center and tribal housing all located in a tsunami zone; and

WHEREAS, the recent tsunami disaster in Japan stands as a tragic reminder of the vulnerability of the Quileute people, and the need for immediate action to move Tribal facilities to higher ground; and

WHEREAS, for many decades, the Quileute Tribe and the Olympic National Park have had a dispute over the Reservation boundaries along the Quillayute River; and

WHEREAS, this dispute intensified as the Quileute Tribe has faced the urgent need for additional lands for housing, schools and other Tribal purposes outside the tsunami and river flood zones; and

WHEREAS, the Quileute Tribal Council and the Olympic National Park engaged in lengthy negotiations to resolve the boundary dispute and to protect the Quileute people from the tsunami and flooding threat; and

WHEREAS, in 2008, the NCAI passed Resolution PHX-08-073 adopted at the Phoenix Arizona Annual Session recognizing that the Quileute Tribe’s administrative buildings, school, elder center and tribal housing are located in the tsunami zone, and supporting draft legislation that would resolve the boundary dispute and to protect the Quileute people.

WHEREAS, the Quileute Tribal Council and the Park reached agreement in 2010 on proposed legislation to resolve the dispute, and the Quileute Tribal Council has asked the Congress to enact this legislation; and

WHEREAS, Senator Maria Cantwell of Washington State and Congressman Norm Dicks of Washington State have introduced legislation to protect the Quileute people from tsunami and to resolve the dispute between the Quileute Indian Tribe and the Park.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby support Senator Cantwell’s legislation, S. 636, and Congressman Dicks’ legislation, H.R. 1162; and

BE IT FURTHER RESOLVED, that the NCAI urges the Congress to act with speed and urgency on S. 636 and H.R. 1162 so that the people and facilities of the Quileute Indian Tribe can be moved to higher ground as soon as possible; and

BE IT FURTHER RESOLVED, that the NCAI wishes to extend its deepest sympathies to the Japanese tsunami victims and their families, and

BE IT FURTHER RESOLVED, that the NCAI believes that swift enactment of S. 636 and H.R. 1162 would honor the memory of the Japanese tsunami victims by preventing another tragedy that could destroy the Quileute Indian Tribe.

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


CERTIFICATION

The foregoing resolution was adopted by the Executive Committee of the National Congress of American Indians on April 5, 2011, with a quorum present.



 President

ATTEST:



 Recording Secretary