



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SAC-06-033

TITLE: Support for Proposed *Cobell* Case Settlement Legislation, S. 1439, with Certain Amendments

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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 national class action case of *Cobell v. Kempthorn*, pending since 1996 in Federal District Court in the District of Columbia, in which the Plaintiffs, who are beneficial holders of financial accounts, called Individual Indian Money accounts, or "IIM" accounts, held in trust for their benefit by the United States government, have demonstrated gross mismanagement of those accounts by the United States and have shown that the United States cannot provide an accounting of the funds that have passed through those accounts; and

WHEREAS, the Plaintiffs have now indicated a willingness to settle the case along the lines of legislation, S. 1439, that is pending before the Senate Committee on Indian Affairs, a new draft of which includes a settlement amount of \$8 billion to be distributed to the holders of IIM accounts as full compensation for the mismanagement of those accounts and for mismanagement of the resources that produce the income that flows into those accounts; and

WHEREAS, the proposed legislation also provides for various mechanisms that will minimize the possibility of future mismanagement of the accounts; and

WHEREAS, the proposed legislation is still pending in the 2nd Session of the 109th Congress of the United States but has not yet been acted on by both Houses of the Congress; and

WHEREAS, with certain key amendments, the proposed legislation is deserving of the support of Indian tribes and their members, with those amendments including the following provisions: 1) a provision extending backwards in time from 1985 the period in which compensation for valid IIM accounts will be provided; 2) a provision that will hold harmless any recipient of a part of the judgment fund established by the legislation from any loss of state benefits, in addition to the section that holds recipients harmless from any loss of federal benefits; 3) a provision that will permit any individual to "opt out" of any portion of the legislation in order to preserve any claim respecting natural resource mismanagement or takings of property that an individual may have against the United States; 4) a provision that will create a hold harmless clause for any members of the *Keepseagle* class action suit now pending in the U.S. District Court for the District of Columbia; 5) a provision that clarifies that no tribe shall be denied the access to the courts to present any tribal claim, either presently pending or presented following enactment of the proposed legislation; and 6) a provision that specifies that no measure of the proposed legislation will take effect until all matters involved in the *Cobell* litigation are dismissed by the court with prejudice.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby urge that its member Indian tribes and individual American Indian and Alaska Native members support the passage of S. 1439, in the Second Session of the 109th Congress, or in the 110th Congress, with the \$8 billion settlement amount included in the legislation, provided that the amendments stated above are included in the final legislation as adopted by Congress; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until the final passage of S. 1439, the *Cobell* settlement legislation, in a form that is substantially similar to the present draft legislation and which contains the amendments referenced in this resolution; and

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

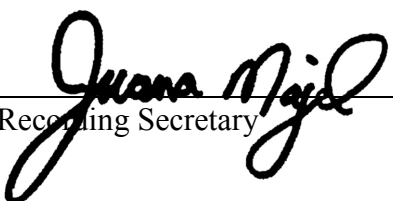
CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2006 63rd Annual Session of the National Congress of American Indians, held at the Sacramento Convention Center in Sacramento, California on October 1-6, 2006, with a quorum present.



President

ATTEST:



Recording Secretary