



## **2013 Executive Board Meeting**

### **RESOLUTION #13-87**

**“REQUESTING THE STATE OF WASHINGTON WITHDRAW ITS INTERIM GUIDANCE AND PROCEED WITH GOOD FAITH IMPLEMENTATION OF *THE CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION V. THURSTON COUNTY BOARD OF EQUALIZATION*, No. 10-35642, 724 F.3d 1153 (9<sup>TH</sup> CIR., 2013) ”**

### **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, Executive Orders, 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 to 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/Alaska Natives and tribes 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**, on July 30<sup>th</sup>, 2013, the Ninth Circuit Court of Appeals ruled favorably for the Confederated Tribes of the Chehalis Reservation, on the long-standing disagreement

regarding state and local government authority to tax tribal trust land and permanent improvements on such trust land; and

**WHEREAS**, Tribal trust land is a fundamental asset of Tribes and is key to our economic future and stability; and

**WHEREAS**, the Ninth Circuit ruling was unequivocal and clear and put an end to any ambiguity about the state and local government authority to impose a tax on tribal trust land and the improvements on such land; and

**WHEREAS**, the Ninth Circuit Court stated “Mescalero sets forth the simple rule that § 465 preempts state and local taxes on permanent improvements built on non-reservation land owned by the United States and held in trust for an Indian Tribe;” and

**WHEREAS**, the Ninth Circuit Court said “This is true without regard to the ownership of the improvements;” and

**WHEREAS**, the Court was relying on U.S. Supreme Court case law that has been in existence for years and a federal statute that has been law for years, and therefore it is now abundantly clear that our lands and the improvements on such land have been illegally subjected to tax by the State and local governments for years; and

**WHEREAS**, on November 15, 2013, the Department of Revenue of the State of Washington transmitted to all of the County Assessors in the State of Washington interim guidance regarding implementation of the *Confederated Tribes of the Chehalis Reservation v. Thurston County Board of Equalization*, directing County Assessors to apply the decision based on the very narrow and specific facts presented to the Ninth Circuit; and

**WHEREAS**, the Ninth Circuit court did not limit or condition its ruling and instead provided a broad ruling recognizing the state’s lack of authority over trust land and improvements on such land; and

**WHEREAS**, such interim guidance is clearly wrong, and has no legitimate purpose even if the Department purports to continue its deliberations; and

**WHEREAS**, the interim guidance is damaging to the Tribes and the economic activities in which we are engaged, and does disservice to the communities in which we are located and to the County Assessors elected to fairly and uniformly administer the property tax laws in those communities; and

**WHEREAS**, ATNI believes that because there is no legal basis for this interim guidance, because the holding of the case and the state of the law is now more than ever clear and certain, and because County Assessors need the correct interpretation to proceed with their statutory duties, that the guidance needs to be corrected immediately; now

**THEREFORE BE IT RESOLVED**, that ATNI does respectfully call upon Governor Jay Inslee to ask Director of the Department of Revenue Carol Nelson to work with her staff to immediately withdraw the interim guidance and in its place issue a property tax advisory setting forth the simple rule of the case, namely, that state and local taxation of trust land and permanent improvements on such trust land is preempted under federal law, without regard to ownership and without regard to activity; and

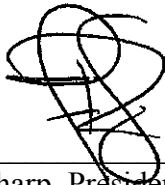
**BE IT FURTHER RESOLVED**, that Governor Jay Inslee ask the Director of the Department of Revenue Carol Nelson to work quickly with her staff to communicate this to County Assessors to assure that the proper reading of the case is swiftly implemented; and

**BE IT FURTHER RESOLVED**, that Governor Jay Inslee ask the Director of the Department of Revenue Carol Nelson to begin work on incorporating the corrected guidance into the permanent rules of the Department of Revenue; and

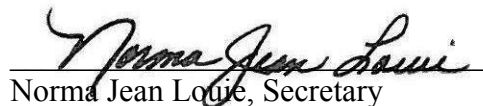
**BE IT FINALLY RESOLVED**, that the ATNI Board of Directors are approving this resolution.

**CERTIFICATION**

The foregoing resolution was adopted at the 2013 ATNI Executive Board meeting of the Affiliated Tribes of Northwest Indians, held via e-mail, on November 21, 2013, with a quorum approval.



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Fawn Sharp, President



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Norma Jean Louie, Secretary