



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ECWS-17-002

### TITLE: Border Security and Immigration Enforcement on Tribal Lands

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#### NCAI HEADQUARTERS

1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
www.ncai.org

**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**, in 1854 the United States created an international boundary with Mexico that divides tribal lands and tribal historic and culturally sensitive sites (NCAI Resolution #ECWS-08-001); and

**WHEREAS**, tribal nations have citizens on both sides of the southern and northern borders of the United States who cross for cultural, religious, employment, and other purposes; the borders now divide many tribal communities, separates tribal members from cultural sites and ceremonies, and blocks access to much needed health care, housing, transportation and other governmental services (NCAI Resolutions #REN-13-078 and #ECWS-08-001); and

**WHEREAS**, tribal members also experience direct negative impacts from illegal immigration and drug trafficking across the international boundary, including violence and crime, damage to cultural resources, increased demands on tribal law enforcement, illegal dumping, and environmental degradation; and

**WHEREAS**, unlike national forests, wilderness areas, and other federal lands on the Canadian and Mexican borders, Indian reservations are not public land, they are reserved for the benefit of the tribes and their members, and the tribes have a duty to ensure that tribal members' rights and the tribes' sovereignty are protected; and

**WHEREAS**, while Executive Order No. 13175, "Consultation and Coordination with Indian Tribal Governments," presidential memorandums, and departmental and agency policies require executive branch agencies and officials to consult and collaborate with affected Indian tribes on federal policies and actions having a substantial direct effect on tribes, in some cases, the DHS has implemented border security measures having a substantial direct effect on Indian tribes but has not consulted or collaborated with tribes (NCAI Resolutions #TUL-05-103 and #ECWS-08-001); and

**WHEREAS**, tribal governments incur significant expenses on border law enforcement efforts, including in partnership with the DHS and its agencies, and authorize border security measures designed to counter drug- and human-trafficking and other border crimes when those measures protect tribal members, lands and resources, and the security of the United States while respecting tribal sovereignty and members' rights; and

**WHEREAS**, on January 25, 2017, President Trump issued Executive Order 13767, "Border Security and Immigration Enforcement Improvements," directing the construction of a physical wall on the United States' southern border with Mexico (Executive Order 13767, Section 2(a) and Section 4(a)); and

**WHEREAS**, a continuous, physical wall on the southern border would

- further divide historic tribal lands and communities;
- prevent tribal members from making traditional crossings for domestic, ceremonial, and religious purposes;
- prevent wildlife from conducting migrations essential for survival and general life, health and existence;
- injure endangered species such as the jaguar and other wildlife sacred to tribes;
- destroy endangered and culturally significant plants;
- militarize the lands on the southern boundary;
- disturb or destroy tribal archeological, sacred sites, and human remains; and

**WHEREAS**, numerous non-Indian border communities would also be negatively impacted by a physical wall on federal, state, and private lands on the Mexican border and oppose its construction; and

**WHEREAS**, the NCAI has likewise opposed the waiver of federal, state, and other laws under section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), as amended, for the construction of border fencing and roads as unnecessary, destructive, and in violation of the federal obligation to interact with Indian tribes on a government-to-government basis and to respect tribal sovereignty and self-determination (NCAI Resolution #ECWS-08-001 and #REN-08-002); and

**WHEREAS**, resources for tribes to secure their own lands and government-to-government coordination, consultation, notification, and agreements between tribes and the federal government are critical to border security efforts (NCAI Resolution #REN-13-078).

**NOW THEREFORE BE IT RESOLVED** that NCAI supports

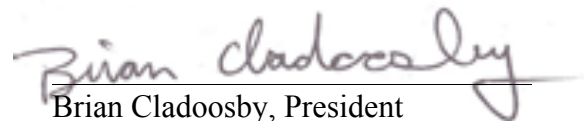
- (1) consultation, collaboration, and direct tribal participation by all affected tribes in the development of the DHS Secretary's comprehensive study of the security of the southern border and any policies or actions implementing Executive Order 13767 and other border security measures;
- (2) government-to-government agreements with the DHS at a tribe's request to improve on-reservation border security coordination and respect for tribal sovereignty and jurisdiction on tribal lands;
- (3) adequate funding for the maintenance and repair of reservation roadways used by DHS; and
- (4) funding to fill on-reservation public safety radio coverage gaps and allow for tribal law enforcement to communicate directly with CBP and other law enforcement partners.

**BE IT FURTHER RESOLVED** that the NCAI opposes

- (1) the construction of a physical wall on the southern border of the United States on tribal lands without the consent of affected tribes; and
- (2) the application of Illegal Immigration Reform and Immigrant Responsibility Act of 1996 Section 102(c) waivers of federal and other laws on tribal lands.

**CERTIFICATION**

The foregoing resolution was adopted by the Executive Committee at the 2017 Executive Council Winter Session of the National Congress of American Indians, held at the Capital Hilton, February 13-16, 2017, with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary