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**COMMENTS OF THE CONFEDERATED TRIBES OF THE WARM SPRINGS  
RESERVATION OF OREGON ON PROPOSED REORGANIZATION OF THE  
BUREAU OF INDIAN AFFAIRS AND THE DEPARTMENT OF INTERIOR**

**JULY 5, 2018**

These written comments of the Confederated Tribes of the Warm Springs Reservation of Oregon are in response to the “Dear Tribal Leader” letter of May 17, 2018, from John Tahsuda, Principal Deputy Assistant Secretary-Indian Affairs regarding proposed Bureau of Indian Affairs and Department of Interior reorganization.

Our first comment is a strong objection to the consultation process, as it has been conducted so far, on this very significant proposal. In particular, Warm Springs is very concerned that not a single one of the eight scheduled formal consultation sessions on the reorganization proposal will take place in the current BIA Northwest Region (Oregon, Washington, Idaho, and western Montana). The Northwest Region is the location of numerous tribes, both large land based tribes, such as Warm Springs, as well as smaller tribes. There is great variety among the tribes in the Northwest, with both direct services tribes and self-governance tribes. Many of the Northwest tribes have treaty secured off-reservation fishing, hunting, and food gathering rights, more than in any other region in the United States, which brings these tribes into contact with other Interior agencies such as the Bureau of Land Management, the National Park Service, the Bureau of Reclamation, and the U.S. Fish and Wildlife Service. The Northwest Region also has the nation’s largest concentration of tribes impacted by fish and wildlife listings under the Endangered Species Act. In short, the BIA Northwest Region tribes are, in all likelihood, more affected by the reorganization proposals than the tribes of any other existing BIA region. It is unforgivable, therefore, not to schedule a consultation in the Northwest Region. We urge you to correct this mistake, and schedule a consultation session in the Northwest while there is still time.

Our second comment is to note that the current consultation on the BIA/DOI reorganization proposal overlaps with the BIA’s pending proposals to dramatically change the 25 CFR Part 151 “fee-to-trust” regulations. Based on our experience at the Portland consultation in late January 2018 on the proposed new fee-to-trust regulations, the tribes and tribal leaders are unanimously opposed to the proposed changes in the Part 151 regulations. In order to make efficient use of its limited resources, the Department should abandon the proposed changes to the existing Part 151 fee-to-trust regulations and focus instead on the consultation process regarding DOI/BIA reorganization. We urge the Department to announce at the earliest possible date that the consideration of changes to the Part 151 regulations has been suspended indefinitely.

Another reason to suspend the proposed changes to the Part 151 regulations is that, as proposed, they would concentrate decision-making in the BIA Central Office in Washington, D.C. and take



away existing decision making authority for most fee-to-trust applications that is now lodged in the BIA regional offices and, in the case of on-reservation transfers, in the Agency offices. That is directly counter to President Trump's Executive Order 13781 on Reorganization that requires "more decisions at the region, fewer in Washington, D.C."

Additionally, regarding the general lack of consultation on the reorganization proposal, Warm Springs wholly supports the criticism of the consultation process set out in National Congress of American Indians Resolution #KAN-18-030 "Opposing the Proposed Reorganization of the Bureau of Indian Affairs without Meaningful Tribal Consultation" adopted earlier this month at NCAI's Midyear Session in Kansas City, Missouri. (See attached NCAI resolution #KAN-18-030).

Regarding the proposed BIA reorganization specifically, Warm Springs urges the Department to acknowledge that the BIA is unique among DOI agencies and bureaus in terms of both its purpose and the constituents it serves. The primary purpose of the BIA is to act as the centerpiece administrative agency entrusted with carrying out the Federal Government's trust responsibility to the nation's Indian tribes and Indian people. The BIA's constituent tribes are the only Interior Department beneficiaries made up of people that govern territories and resources in coordination with the DOI. Accordingly, the BIA's mission and its relationships with its constituents are essentially legal and political. This mission and these relationships are not based on "watersheds and ecosystems", which are the basis of the proposed BIA reorganization.

The proposed reorganization of BIA's Northwest Region into the "Columbia Pacific Region" illustrates this point. While the proposed new Region 10 covers most of the current Northwest Region, a significant exception is the Klamath Tribe and the Klamath Basin in southern Oregon, which are moved to the new "California-Great Basin Region", presumably to include the entire Klamath River Basin in a single DOI/BIA region. This would cut the Klamath Tribe off from its nearby BIA regional support for the tribe's many pending issues with the State of Oregon, such as a long-running water rights adjudication, gaming compact issues and law enforcement issues stemming from the tribe's P.L. 280 status. Indeed, if a watershed lumping of tribes makes any sense in the Klamath Basin, the tribes along the Klamath should all be in Region 10, Columbia Pacific Region, instead of the Region 11 California-Pacific Region. The Klamath Basin tribes themselves recognize this by the action of all three Klamath Basin tribes in California (Hoopa Valley, Karuk, and Yurok) and Smith River Rancheria along the Oregon border having long-standing membership in the Affiliated Tribes of Northwest Indians, the BIA Northwest Region's long-established and highly regarded association of 57 Northwest tribes. Accordingly, either the Klamath Tribes should remain in Region 10 or all Klamath Basin tribes (both in California and in Oregon) should be included in the new Columbia Pacific Region.

We also object to what is certain to be a very costly reorganization process. The BIA's limited financial resources should be prioritized for spending on direct services the Tribes and Indian



people who are the BIA's constituents. Devoting scarce financial resources to a "reorganization" process that offers no tangible or certain benefit s to the agency's constituents is contrary to the Department's trust responsibility to the tribes and Indian people.

Our final comment concerns recent BIA Personnel Changes. We have become aware of numerous personnel changes involving transfers from and to the Central Office and regional offices and between regional offices. These changes appear to be part of an agency-wide reorganization but, to our knowledge, there has been no consultation with the tribes affected directly or indirectly by these changes. It is critical to the BIA's mission that its personnel have deep personal knowledge about the tribes they serve and strong relationships with the tribes' leaders. Those relationships and that knowledge can only come with time and experience. Frequent and inexplicable changes in agency personnel, without any consultation with the directly and indirectly affected tribes, undermines the BIA mission of carrying out the government's trust responsibility to tribes and, for that reason, must cease.

Thank you for considering our comments. We look forward to your scheduling a formal consultation session in the Northwest Region in the very near future so that Warm Springs and other Northwest tribes can discuss our concerns directly with Department representatives.





## NATIONAL CONGRESS OF AMERICAN INDIANS

### The National Congress of American Indians Resolution #KAN-18-030

#### **TITLE: Opposing the Proposed Reorganization of the Bureau of Indian Affairs without Meaningful Tribal Consultation**

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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 and the United Nations Declaration on the Rights of Indigenous Peoples, 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 Department of Interior (DOI) has proposed the reorganization of the regional office boundaries across all of the Department's Bureaus, including the Bureau of Indian Affairs, into 13 regions by watershed and ecosystem; and

**WHEREAS**, under the proposed reorganization, many of the current twelve (12) BIA regions would be broken up or drastically impacted; and

**WHEREAS**, despite claims from DOI that it will not move forward with reorganization without consultation with Indian Country, the BIA has already started reassignment of employees, as evidenced by the removal and reassignment of a number of Senior BIA Program officials; and

**WHEREAS**, upon investigation, the Inspector General concluded that DOI failed to put forth any coherent or consistent plan to support its past reassignment of employees with a lack of documentation surrounding the reassignments leading the Inspector General to opine that the reassignments may have not been in compliance with federal law; and

**WHEREAS**, it appears a full and complete assessment of the impacts of the proposed reorganization and resulting reassignments on DOI programs has not been conducted by the DOI despite the fact that these changes will result in systemic impacts to the manner and level of services provided by DOI to Tribes; and



**WHEREAS**, tribal consultation is a process that is meant to create effective collaboration with Tribes and the United States by building upon a government-to-government exchange of information, and defined by respect of tribal self-government, sovereignty, tribal treaty rights, and the trust responsibility whenever the federal government considers policies impacting tribal governments; and

**WHEREAS**, according to a Dear Tribal Leader Letter dated May 17, 2018, DOI is planning consultations throughout Indian Country during the months of June, July and August in an efforts to consider how BIA regions and functions should be included in DOI's reorganization; and

**WHEREAS**, the restricted timeframe and lack of information available to Tribes regarding the reorganization will undoubtedly limit the effectiveness of these scheduled consultations, thereby stifling Tribal input and concern regarding DOI's reorganization efforts.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) hereby calls on the Department of Interior to cease any further reassignments or reorganization of Department Bureaus without good faith and informed consultations throughout Indian Country; and

**BE IT FURTHER RESOLVED**, that as a part of these consultations, DOI take action upon more pressing proposals put forward by Tribes to improve efficiency, effectiveness, and accountability of the DOI, including but not limited to:

- (1) The termination of the Office of Special Trustee, as provided for in the Indian Trust Asset Reform Act, P.L. 114-178. 130 Stat. 432 (2016), and subsequent transfer of its functions into the BIA; and
- (2) The restructuring of tribal land management protocol to no longer allow BLM to manage tribal lands as public lands pursuant to NCAI Resolution #REN-13-077; and

**BE IT FINALLY 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 2018 Midyear Session of the National Congress of American Indians, held at the Marriott Kansas City Downtown, June 3-6, 2018, with a quorum present.

  
Jefferson Keel, President

ATTEST:

  
Juana Majel Dixon, Recording Secretary