

Resolution for NABA-DC re Tribal Interests in Federal Public Lands

WHEREAS, the Native American Bar Association of Washington, D.C. (“NABA-DC”) was established to promote the educational and professional advancement of Native American attorneys and Indian country; and

WHEREAS, NABA-DC is committed to promoting the sovereignty of Native American tribes and their communities; protecting the legal rights of individual Native Americans, their communities, and their tribes; providing community outreach and education about legal issues that affect Native Americans; and promoting the cultural heritage of Native Americans, their communities, and their tribes; and

WHEREAS, the land that is currently treated as “Indian country” or is otherwise within the territorial jurisdiction of Tribal Nations is but a small remnant of the territories that historically comprised Tribal Nations’ homelands; and

WHEREAS, much of the land that Tribal Nations historically inhabited is currently held by the United States and administered as federal public lands; and

WHEREAS, Article 26 (1) of the United Nations Declaration on the Rights of Indigenous Peoples (“the Declaration”) recognizes and respects indigenous peoples’ “right to lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired,” and Article 26 (3) dictates that “[s]tates shall give legal recognition and protection to these lands, territories and resources” and “[s]uch recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned”; and

WHEREAS, Article 29 (1) of the Declaration recognizes that “[i]ndigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources” and dictates that “[s]tates shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination”; and

WHEREAS, the United States of America Department of State announced United States support for the Declaration and its Articles in 2010; and

WHEREAS, federal public lands provide habitat for many culturally significant species of flora and fauna, including, in many cases, species in which Tribal Nations have treaty or statutory rights; and

WHEREAS, federal public lands encompass a great many places and landscapes that are important for the cultural heritage of Tribal Nations, and many such places hold religious and cultural significance and may also be eligible for the National Register of Historic Places; and

WHEREAS, in recent years, federal land managing agencies have taken a number of administrative actions in recognition of the various kinds of rights, interests, and concerns that Tribal Nations have regarding federal public lands; and

WHEREAS, in recent years, proposals have been advanced to transfer federal public lands to the states, which would undercut the positive developments noted above, but, in the current political environment such proposals must be taken seriously;

NOW THEREFORE BE IT RESOLVED, that NABA-DC acknowledges that administrative actions and policies in recent years that are supportive of Tribal Nations' interests and concerns regarding federal public lands are positive steps in the ongoing development of relationships among federal land managing agencies and Tribal Nations, and further they are steps that can be expected to contribute to empowerment of Tribal Nation leaders to more effectively advocate for Tribal Nation rights, interests, and concerns regarding federal public lands and that will, in turn, lead to decisions by federal agency officials that more fully incorporate consideration of Tribal Nation perspectives; and

BE IT FURTHER RESOLVED, that NABA-DC is opposed to the transfer of federal public lands to the states unless adequate provisions are made to ensure protection of tribal rights, interests, and concerns; and

BE IT FINALLY RESOLVED, that this shall be the policy of NABA-DC until it is withdrawn or modified by subsequent resolution.