August 11, 2023

Via Email and U.S. Certified Mail

The Honorable Fawn Sharp  
President  
National Congress of American Indians  
Embassy of Tribal Nations  
1516 P Street N.W.  
Washington, D.C. 20005  
fsharp@quinalt.org

Re: Ute Indian Tribe’s Proposed Amendments to the NCAI Constitution

Dear President Sharp and the NCAI Executive Committee:

The purpose of this letter is to respectfully submit the Ute Indian Tribe’s proposed amendments to the National Congress of American Indians (“NCAI”) Constitution and Bylaws to the NCAI national office. In keeping with Article VII of the NCAI Constitution, we request that the Executive Committee review these proposed amendments and forward them to NCAI membership so that the proposed amendments can be voted on by membership at the Annual Convention in New Orleans in November 2023.

The proposed amendments, attached and incorporated herein, revise the qualifications for tribal and individual Indian membership in NCAI. In short, these amendments are an effort to steer a straying NCAI back towards its founding mission: the protection and enhancement of treaty and sovereign rights. We prepared these proposed amendments in response to our concerns about the recent proliferation of state recognized tribes and members of state recognized tribes in NCAI’s voting tribal membership body.

State recognized tribes do not and cannot share the same concerns as federally recognized tribes regarding the protection and enhancement of treaty and sovereign rights because, simply, they have no treaty rights and do not function as sovereigns. Moreover, it is often the case that
state recognized tribes are forced to pursue recognition via a state mechanism because they have failed to sufficiently make the required showings of Indian ancestry in the federal recognition process. These groups, with questionable claims to Indian ancestry, are currently treated on par with federally recognized tribes for purposes of voting on policy issues and having their interests advocated for at the federal level by NCAI. Additionally state recognized tribes are uniquely susceptible to being compromised, wittingly or unwittingly, by private interest groups. These private interest groups often act through state recognized tribes to effectuate laws and policies which effectively weaken the rights held by federally recognized tribes as was seen in the Fifth Circuit eagle feather case, *McAllen v. Jewell*.

NCAI is prevented from vigorously pursuing its mission of protecting and enhancing treaty and sovereign rights when it supports and advocates for groups with no treaty rights or sovereign status. At a time when the sovereignty of federally recognized tribes is under constant attack from Supreme Court decisions and various other federal actions, NCAI cannot waste valuable time and advocacy efforts on representing or entertaining the interests of state recognized tribes with no federally enforceable rights.

To resolve this issue and get NCAI back on track, we have proposed a solution to the problem in the form of an amendment to the NCAI Constitution and Bylaws. Our amendments would limit tribal memberships in NCAI to federally recognized tribes and would limit individual Indian membership in NCAI to members of federally recognized tribes. These amendments would disqualify state recognized tribes from seeking a tribal membership with attached voting rights in NCAI. Importantly, state recognized tribes would not be barred from membership in NCAI. These groups could obtain an Organization Associate Membership; however, they would not hold voting rights. Similarly, individual members of state recognized tribes could obtain a non-voting Individual Associate Membership.

We close by noting that we have received a resolution, attached and incorporated herein, in support of our proposed amendments from the Rocky Mountain Tribal Leaders Council ("RMTLC"). This resolution represents the support of eleven (11) federally recognized tribes for our amendments to NCAI's Constitution and Bylaws limiting tribal membership to federally recognized tribes with treaty rights and sovereign status.

On Behalf of the Ute Indian Tribe Business Committee:

Julius T. Murray, III
Business Committee Chairman
PROPOSED CONSTITUTIONAL AMENDMENTS

The following are proposed amendments to the NCAI Constitution.

Proposed amendments to NCAI Constitution Article II(B)(1)(d) follow in underscore-strikethrough and red:

Tribal Membership

Any tribe, band or identifiable group of American Indians, Eskimos, and Aleuts shall be eligible for tribal membership provided it shall fulfill all of the following requirements:

d. It is recognized as a tribe, or other identifiable group of American Indians by the Department of the Interior, Court of Claims, or the Indian Claims Commission, or a State. An Indian or Alaska Native organization incorporated/chartered under state law is not eligible for tribal membership.

Reason for proposed change: Striking “or a State” from Article II(B)(1)(d) is a minimal change which, when the last sentence of Article II(B)(1) is allowed to stand, prohibits state recognized tribes from obtaining tribal memberships in NCAI. This ensures that NCAI policy and advocacy is directed by and in the best interests of federally recognized tribes, consistent with NCAI's founding mission.

Proposed final language of Article II(B)(1)(d):

Tribal Membership

Any tribe, band or identifiable group of American Indians, Eskimos, and Aleuts shall be eligible for tribal membership provided it shall fulfill all of the following requirements:

d. It is recognized as a tribe, or other identifiable group of American Indians by the Department of the Interior, Court of Claims, or the Indian Claims Commission. An Indian or Alaska Native organization incorporated/chartered under state law is not eligible for tribal membership.

Proposed amendments to NCAI Constitution Article II(B)(2) follow in underscore-strikethrough and red:

Indian Individual Membership

Any person of Indian and/or Alaska Native ancestry in the United States, who is recognized as a member by an Indian tribe, or combination of tribes and bands, recognized by either the U.S. Department of the Interior, the Indian Claims Commission, or Court of Claims, or a State, is eligible for Indian individual membership.
Reason for proposed change: This change mirrors the change made to Article II (B)(1)(d), applying the same logic to Indian Individual Memberships.

Proposed final language of Article II (B)(1)(d):

**Indian Individual Membership**

Any person of Indian and/or Alaska Native ancestry in the United States, who is recognized as a member by an Indian tribe, or combination of tribes and bands, recognized by either the U.S. Department of the Interior, the Indian Claims Commission, or Court of Claims is eligible for Indian individual membership.

Proposed amendments to NCAI Constitution Article II(F)(1)(c) follow in underscore-strikethrough and red:

**Nominations**

Qualifications: (1) Only tribal delegates or alternates to NCAI in good membership standing shall qualify for nomination, election or office of the Executive Committee. (2) **The Administrative Board Officers and Regional Vice Presidents shall be recognized members of an Indian tribe recognized by either the U.S. Department of Interior, the Indian Claims Commission, or Court of Claims.** (3) The Administrative Board Officers shall be tribal officials who are elected or appointed to represent their tribal government, and are supported by a resolution from their tribe. (4) The Regional Vice Presidents shall be tribal officials who are elected or appointed to represent their tribal government.

Reason for proposed change: This change is consistent with the effort to amend the NCAI Constitution to reflect the mission to protect and enhance treaty and sovereign rights of federally recognized tribes. As a result, this change makes it a Constitutional requirement that only those members of federally recognized tribes are eligible to serve on the NCAI Executive Committee.

Proposed final language of Article II(F)(1)(c):

**Nominations**

Qualifications: (1) Only tribal delegates or alternates to NCAI in good membership standing shall qualify for nomination, election or office of the Executive Committee. (2) The Administrative Board Officers and Regional Vice Presidents shall be recognized members of an Indian tribe recognized by either the U.S. Department of Interior, the Indian Claims Commission, or Court of Claims. (3) The Administrative Board Officers shall be tribal officials who are elected or appointed to represent their tribal government, and are supported by a resolution from their tribe. (4) The Regional Vice Presidents shall be tribal officials who are elected or appointed to represent their tribal government.
PROPOSED BYLAWS AMENDMENTS

The following are proposed amendments to the NCAI Bylaws.

Proposed amendment to NCAI Bylaws Article III (B)(1)(a)(4) follow in underscore-strikethrough and red:

Tribal Membership

Any Tribe, band or identifiable group of American Indians and Alaska Natives shall be eligible for tribal membership provided it shall fulfill all of the following requirements:

(4) It is recognized as a tribe, or other identifiable group of American Indians by the Department of the Interior, Court of Claims or the Indian Claims Commission. An Indian or Alaska Native organization incorporated/chartered under state law is not eligible for tribal membership.

Reason for change: This language in the Bylaws mirrors the Tribal Membership provision in Article II(B)(1)(d) Constitution. Accordingly, this change is consistent with the change made in the Constitution and is made for the same reason as the Constitutional change was made: to ensure that NCAI's policy and advocacy efforts are voted on and led by federally recognized tribes and members of federally recognized tribes.

Proposed final language of Bylaws Article III (B)(1)(a)(4):

Tribal Membership

Any Tribe, band or identifiable group of American Indians and Alaska Natives shall be eligible for tribal membership provided it shall fulfill all of the following requirements:

(4) It is recognized as a tribe, or other identifiable group of American Indians by the Department of the Interior, Court of Claims or the Indian Claims Commission. An Indian or Alaska Native organization incorporated/chartered under state law is not eligible for tribal membership.

Proposed amendment to NCAI Bylaws Article III(B)(1)(e) follow in strikethrough:

e. Indian tribes relying on state recognition to qualify for membership in NCAI shall provide evidence to the Chief Executive Officer and the Rules and Credentials Committee that the recognition was authorized under state law, and that the state government engaged in verification that the Indian tribe is a continuing community of interrelated descendants of a historic American Indian tribe or tribes.

If the state does not have a recognition process or the status of state recognition is unclear, the appropriate NCAI regional caucus may sponsor the membership of a particular tribe.
after engaging in verification that the Indian tribe is a continuing community of interrelated descendants of a historic American Indian tribe or tribes. This proposed tribal membership will be reviewed by the NCAI Executive Committee and then forwarded to the Rules and Credentials Committee.

Reason for change: The language which has been stricken in the proposed amendment contains a process for allowing state recognized tribes to obtain a tribal membership in NCAI and establishes a sponsorship regime whereby tribes can avoid often minimal state recognition processes and obtain a tribal membership in NCAI through the sponsorship of a regional caucus. These provisions open the floodgates to any and every state recognized group seeking tribal membership in NCAI to obtain such a membership regardless of their lack of treaty rights and sovereign status. They have been struck accordingly, to limit voting tribal memberships in NCAI to members of federally recognized tribes.

Proposed final language of Bylaws Article III(B)(1)(c): The proposed amendment would strike Article III(B)(1)(c) and the paragraph immediately following the section entirely.

Proposed amendment to NCAI Bylaws Article III (B)(2) follow in underscore-strikethrough and red:

**Individual Indian Membership**

Any person of Indian and/or Alaska Native ancestry in the United States, who is recognized as a member by an Indian tribe, or combination of tribes and bands, recognized by either the U.S. Department of the Interior, the Indian Claims Commission, or Court of Claims, or a State, is eligible for Indian individual membership.

Reason for change: This language in the Bylaws mirrors the Tribal Membership provision in Article II(B)(2) of the Constitution. Accordingly, this change is consistent with the change made in the Constitution and is made for the same reason as the Constitutional change was made: to ensure that NCAI's policy and advocacy efforts are voted on and led by federally recognized tribes and members of federally recognized tribes.

Proposed final language of Bylaws Article III (B)(2):

**Individual Indian Membership**

Any person of Indian and/or Alaska Native ancestry in the United States, who is recognized as a member by an Indian tribe, or combination of tribes and bands, recognized by either the U.S. Department of the Interior, the Indian Claims Commission, or Court of Claims is eligible for Indian individual membership.
Resolution #: 07-27-2023-02

A ROCKY MOUNTAIN TRIBAL LEADERS COUNCIL RESOLUTION IN SUPPORT OF THE UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION'S PROPOSED AMENDMENTS TO THE CONSTITUTION OF THE NATIONAL CONGRESS OF AMERICAN INDIANS LIMITING TRIBAL MEMBERSHIP IN THE NATIONAL CONGRESS OF AMERICAN INDIANS TO FEDERALLY RECOGNIZED TRIBES

WHEREAS, the Rocky Mountain Tribal Leaders Council (RMTLC) has been created for the express purpose of providing its member Tribes with a unified voice and collective organization to address issues of concern to the Tribes and Indian people; and

WHEREAS, the Board of Directors of the RMTLC consists of duly elected Tribal Chairs, Presidents, and Members who are fully authorized to represent their respective Tribes; and

WHEREAS, the RMTLC has determined that the National Congress of American Indians ("NCAI") has strayed from its mission to represent the interests of federally recognized tribes; and

WHEREAS, the sovereignty and self-determination secured for federally recognized tribes is threatened by Supreme Court rulings and other federal actions; and

WHEREAS, the RMTLC recognizes that there has been a recent proliferation of state recognized tribes in NCAI's tribal membership and individual Indian membership bodies; and

WHEREAS, state recognized tribes and "sponsored" tribes have been active advocates for policies which effectively weaken the rights secured for federally recognized tribes by virtue of their government-to-government relationship with the United States; and

WHEREAS, NCAI must advocate for policies which defend the rights secured for federally recognized tribes; and

WHEREAS, the Ute Indian Tribe of the Uintah and Ouray Reservation ("Ute Indian Tribe") has prepared a set of amendments to the NCAI Constitution, attached and incorporated herein, which would limit tribal membership and individual Indian membership, with attached voting rights, to federally recognized tribes and members of federally recognized tribes; and

WHEREAS, the RMTLC has determined that it is in the interests of its member Tribes to support the Ute Indian Tribe's amendments to the NCAI Constitution, which disqualify state recognized tribes and members of state recognized tribes from obtaining tribal and/or individual Indian memberships in NCAI with attached voting rights; and

NOW THEREFORE BE IT RESOLVED, that the RMTLC supports the Ute Indian Tribe's amendments to the NCAI Constitution; and
BE IT FURTHER RESOLVED, that NCAI shall amend Article III Section B(1)(d) and Section B(2) to strike language which makes state recognized tribes and individual Indian members of state recognized tribes eligible for tribal and individual Indian memberships in NCAI; and

BE IT FURTHER RESOLVED, that NCAI shall amend Article III Section F of the Constitution to limit the qualification of NCAI officers to those individual Indian members of federally recognized tribes; and

BE IT FURTHER RESOLVED, that NCAI shall amend Article III Section B(1)(4) of the Bylaws to strike language making state recognized tribes eligible for tribal membership in NCAI; and

BE IT FINALLY RESOLVED, that NCAI shall amend Article III Section B(e) of the Bylaws to strike language providing a process for state recognized tribes to obtain tribal memberships in NCAI, and to strike language in the paragraph immediately following Section B(e) allowing for NCAI regional caucuses to sponsor the membership of a tribe absent a state-based process for obtaining state recognition as a tribe.

CERTIFICATION

The Board of Directors adopted the foregoing Resolution at a meeting held on the 27th day of July 2023, at an Alliance Meeting held in Billings, MT, with the required quorum present by vote of 2 for and 0 against.

Gerald Gray
Chairman, RMTLC

Bryce Kirk
Secretary, RMTLC