



RESOLUTION SUPPORTING MEANINGFUL CONSULTATION WITH TRIBAL GOVERNMENTS IN INFRASTRUCTURE AND LAND USE DECISIONS CONSISTENT WITH ENVIRONMENTAL JUSTICE

Endorsed February 28, 2017

WHEREAS, the Coalition of Bar Associations of Color (CBAC), organized in 1992, is a coalition created to act as a collective voice for issues of common concern to its member organizations; and

WHEREAS, the member organizations of the CBAC are the Hispanic National Bar Association (HNBA), the National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA); and

WHEREAS, the member organizations of CBAC are the national voices of their respective legal communities in the United States and its territories and possessions; and

WHEREAS, the United States Environmental Protection Agency defines environmental justice as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies” (<https://www.epa.gov/environmentaljustice>); and

WHEREAS, federal, state, and local governments, to support environmental justice, must consider the impact developments have not only on people of color generally, but on Tribal communities specifically, because Tribes are sovereign governments and because many Native Americans live on reservations, ancestral homelands which are not subject to defeasance; and

WHEREAS, there are numerous sources of authority requiring and encouraging tribal engagement and participation in land use and development, including but not limited to:

- National Historic Preservation Act (“NHPA”), Section 106 (47 U.S.C. § 470f) and its implementing regulations (36 C.F.R. Part 800).

- National Environmental Policy Act (“NEPA”) (42 U.S.C. 4321-4347) and its implementing Regulations (40 C.F.R. §§ 1500-1518)
- Archaeological Resources Protection Act (“ARPA”) (16 U.S.C. §§ 470aa *et seq.*)
- Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001)
- Historical and Archeological Data Preservation Act (“HADPA”) (16 U.S.C. § 469 *et seq.*)
- American Indian Religious Freedom Act (“AIRFA”) (42 U.S. C. 1996)
- Presidential Memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments”
- Executive Order 13007, “Indian Sacred Sites” (May 24, 1996)
- Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments” (Nov. 6, 2000)
- Presidential Memorandum of November 5, 2009, “Memorandum for the Heads of Executive Departments and Agencies”
- Executive Order 13604, “Improving Performance of Federal Permitting and Review of Infrastructure Projects” (Mar. 22, 2012)
- Agency handbooks and manuals
- International Laws and norms, including the United Nations Declaration on the Rights of Indigenous Peoples, Articles 19 and 32.
- Inherent Tribal Sovereignty.

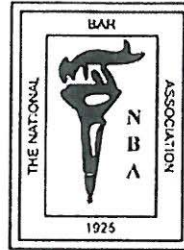
WHEREAS, pursuant to these sources of authority federal agencies are required to timely consult with Indian tribes on a government-to-government basis and in a meaningful manner; and

WHEREAS, Tribal peoples have the right and authority to provide meaningful and substantive input to inform any process pertaining to development projects which impact their communities;

NOW THEREFORE BE IT RESOLVED that CBAC supports and strongly urges federal, state, and local governments to timely and meaningfully consult with Tribal governments on any land-use or development matters that impact Tribal communities as outlined in the “Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions” report released jointly by the United States Department of the Interior, the United States Department of the Army and the United States Department of Justice in January 2017.

CERTIFICATION

WE, the duly-elected Presidents of the Hispanic National Bar Association (HNBA), the National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA), hereby certify that the foregoing Resolution was duly enacted by a duly noticed meeting of the Board of Directors.





Pedro Torres-Diaz
President, Hispanic National Bar Association

2/28/17

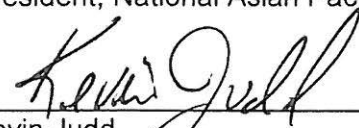
Date



Cyndie Chang
President, National Asian Pacific American Bar Association

2/28/17

Date



Kevin Judd
President, National Bar Association

2/28/17

Date



Jennifer H. Weddle
President, National Native American Bar Association

2/28/17

Date