



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #ABQ-03-061

### Title: **Opposition To Nomination And Confirmation Of Interior Solicitor William G. Myers, III, To Ninth Circuit Court Of Appeals**

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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, 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**, Coyote Valley Band of Pomo Indians is a federally recognized Tribe recognized by the United States as having the sovereign powers invested in a Tribal Government; and

**WHEREAS**, the California Nations Indian Gaming Association (CNIGA) is a non-profit organization of 57 federally-recognized California tribal governments; and

**WHEREAS**, on May 15, 2003, President George W. Bush nominated Department of Interior Solicitor William G. Myers, III, to a not yet vacant seat on the Ninth Circuit Court of Appeals to replace Thomas Nelson of Idaho who will be retiring; and

**WHEREAS**, Solicitor Myers' October 23, 2001, Solicitor's Opinion advising the revocation of the prior Solicitor Leshy Opinion and rescission of the denial of the plan of operations protecting Quechan Indian Pass from the proposed Glamis Imperial Gold Mine in the southeastern California desert was relied upon by Interior Secretary Gale Norton in rescinding the denial of the mine so that it could be reconsidered; and

**WHEREAS**, neither Solicitor Myers nor Secretary Norton's offices, unlike their predecessor, engaged in government-to-government consultation with the Quechan Indian Nation, a federally-recognized tribe, nor other Colorado River Tribes, before taking action to imperil the sacred places at Quechan Indian Nation, a federally-recognized tribe; and

**WHEREAS**, a similar reversal of final agency action by Interior to Northern California tribes relative to a Medicine Lake Highlands geothermal project occurred during the same period; and

**WHEREAS**, the Ninth Circuit Court of Appeals encompasses nine western states and other territories including California, Oregon, Washington, Arizona, Montana, Idaho, Nevada, Alaska, Hawaii and Guam, scores of reservations well over one hundred Indian tribes, millions of Indian people, millions of acres of public lands and important federal and tribal lands management issues; and

**WHEREAS**, an appointment to the federal bench is a lifetime appointment; and

**WHEREAS**, Solicitor Myers' actions in the Glamis matter show a deep lack of respect and understanding of the unique political relationship between the federal government and tribal governments; and

**WHEREAS**, by prior NCAI Resolutions NCAI has strongly supported the Quechan people in their struggle to protect their sacred places at Quechan Indian Pass (Resolution #SPO-01-162 and Resolution #SD-02-018); and

**WHEREAS**, Solicitor Myers' actions and legal advice in the Glamis matter could result in the extinguishment of the Quechan people's tribal heritage, actions and advice that reveals an activist point of view that disrespects tribal values that should not be reflected on the federal bench; and

**WHEREAS**, Solicitor Myers has demonstrated an inability to set aside personal bias to act in a neutral and objective manner and on October 1, 2003, resigned his position as Solicitor amid federal investigations into alleged violations of his ethics agreements by having contracts with former clients including the National Mining Association; and

**WHEREAS**, on October 23, 2003, the CNIGA member tribes approved a resolution OPPOSING the nomination of William G. Myers, III, and a letter to be sent to the Senate Judiciary Committee expressing that view and for other related actions to be taken; and

**WHEREAS**, NCAI recognizes that the appointment of Solicitor Myer will not be in the best interest of the Tribes of the United States; that Tribes need to become more active in the judicial nomination and confirmation processes especially given recent trends in circuit and the Supreme courts; and that this is another way for tribal nations to protect their sovereignty.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI does hereby supports the California Tribes and hereby OPPOSES the nomination and confirmation of William G. Myers, III, as Judge for the Ninth Circuit Courts of Appeals or any federal judgeship; and

**BE IT FURTHER RESOLVED**, that NCAI will immediately urge President Bush to reconsider and withdraw Mr. Myers' nomination; and

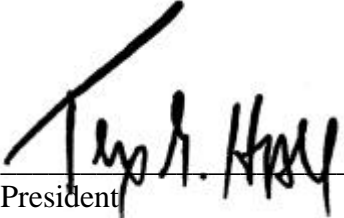
**BE IT FURTHER RESOLVED**, that NCAI will immediately convey its OPPOSITION of the nomination to the Senate Judiciary Committee and request to be made part of the confirmation hearing process; and

**BE IT FURTHER RESOLVED**, that NCAI will work with CNIGA, other interested groups and the media to oppose the nomination; and

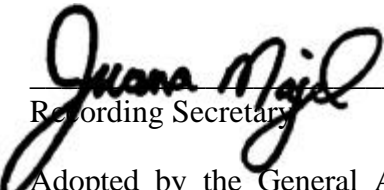
**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted at the 60<sup>th</sup> Annual Session of the National Congress of American Indians, held at the Albuquerque Convention Center, Albuquerque, New Mexico, on November 21, 2003 with a quorum present.

  
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President

**ATTEST:**

  
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Recording Secretary

Adopted by the General Assembly during 60<sup>th</sup> Annual Session of the National Congress of American Indians, held in Albuquerque, New Mexico, from November 17-21, 2003.