Re: Protect the Land Into Trust Process and Existing Indian Trust Lands

Dear Congressional Leaders:

February 24, 2019 marks ten years since the U.S. Supreme Court’s deeply misguided decision in Carcieri v. Salazar. The undersigned Tribal organizations urge your Committees to enact legislation that would protect existing Indian trust lands and restore certainty and fairness to the tribal land into trust process by fixing the flawed Carcieri decision.

At its core, the Carcieri decision is an attack on the Indian Reorganization Act (IRA) of 1934, which Congress enacted to stop the massive loss of Indian lands inflicted by the General Allotment Act of 1887 (Allotment Act).

The Allotment Act, accompanied by the policy of forced Assimilation, resulted in the taking and loss of 90 million acres of Indian homelands. The Allotment Act also inflicted collateral damage in the form of the “diminishment” of Treaty-promised Indian Reservations; the “checkerboard-ing” of Indian lands—creating the jurisdictional morass facing many residents of Indian Country today; and the “fractionation” of Indian lands that added to the Government’s mismanagement of remaining Indian land base.

Congress enacted the Indian Reorganization Act of 1934 to repeal the Allotment policy with the overarching goals of restoring and protecting Indian homelands, empowering Tribal governments, and preserving Tribal culture. Section 465 of the IRA authorizes the Interior Secretary to acquire lands and place them into trust for Indian Tribes. For 75 years, Tribes used Section 465 to restore a modest land base for basic infrastructure projects (schools, hospitals, housing, etc.), for agricultural development, to protect Native sacred places and burial sites, and for economic development purposes. Tribes restored approximately 5 million acres of Native homelands—far short of the 90 million acres lost or taken through Allotment.

In 2009, the Carcieri Court ruled that the Secretary’s IRA land to trust authority is limited to only those Tribes that were “under federal jurisdiction” in 1934. The term “under federal jurisdiction” is not defined and has led to legal ambiguities that have paralyzed the already under funded and severely backlogged land into trust process. The decision has also generated new legal attacks on existing Indian trust lands that the United States, at taxpayer expense, must defend. These lawsuits jeopardize not only Tribal governmental programs but also hinder economic and community development.

Tribal government land bases are the very foundation of tribal sovereignty and strong economies. Enacting a legislative fix to the Carcieri v. Salazar decision remains a top priority for all of Indian Country. Such legislation includes two components: (1) restoring the Secretary’s IRA authority to take land into trust for all federally recognized Indian Tribes; and (2) reaffirming existing Indian trust lands.
As a result, our organizations urge you to enact H.R. 375 (sponsored by Rep. Tom Cole) and similar bills that will achieve the goals of protecting the land into trust process and existing Indian trust lands.

Thank you for your consideration of this request. We look forward to working with you in the 116th Congress to finally enact legislation to reverse the devastating impacts of the Carcieri decision by protecting the IRA Indian land to trust process and existing Indian trust lands.

Sincerely,

A. Gay Kingman, Executive Director
Great Plains Tribal Chairman’s Association

Jefferson Keel, President
National Congress of American Indians

Kirk Francis, President
United South and Eastern Tribes Sovereignty Protection Fund

W. Ron Allen, Chairman
Self-Governance Communication & Education Tribal Consortium

Shan Lewis, President
Inter Tribal Association of Arizona

Cris Stainbrook, President
Indian Land Tenure Foundation

LaDonna Harris, President
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Frank Cloutier, President
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Zach Ducheneaux, Executive Director
Intertribal Agriculture Council

Gary Cooper, Board of Directors Chairman
National American Indian Housing Council

Ernie Stevens Jr., Chairman
National Indian Gaming Association

Dante Desiderio, Executive Director
Native American Finance Officers Association
Robert “Tim” Coulter, Executive Director
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Michael E. Roberts, President
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Victoria Kitcheyan, Chairperson
National Indian Health Board

John E. Echohawk, Executive Director
Native American Rights Fund

Tina Routh, President
National Indian Head Start Directors Association

Leonard Forsman, President
Affiliated Tribes of Northwest Indians

Julie Kitka, President
Alaska Federation of Natives

Chris James, President & CEO
National Center for American Indian Enterprise Development

Kimberly Teehee, President
Native American Contractors Association

Maureen Rosette, Board President
National Council of Urban Indian Health

Gerald Gray, Chairman
Rocky Mountain Tribal Leaders Council

E. Paul Torres, Chairman
All Pueblo Council of Governors

Lynn “Nay” Valbuena, Chairwoman
Tribal Alliance of Sovereign Indian Nations

Mark N. Fox, Chairman
Mandan, Hidatsa and Arikara Nation
Coalition of Large Tribes

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Thank you for your time and assistance!