

Carcieri v. Salazar – IRA Question

- **Sec. 5.** The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing lands for Indians.

Carcieri v. Norton – IRA Question

- **Sec. 19.** The term "Indian" as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction....

Legislative Solution

- Congress can and should correct this issue
- Congress enacted the Duro Fix
- NCAI has proposed language
- Need support from Senators,
Representatives, Interior and White House

Legal Interpretation

- Interior is forced to interpret and apply the Carciari decision
- Consultation needed to ensure tribal views are considered
- Not only “consultation” – but a process for careful consideration of legal issues and impacts

“Under Federal Jurisdiction”

- Constitution vests jurisdiction in Indian affairs in federal government
- Presumption is all Indian tribes are “under federal jurisdiction” unless terminated or tribal relations cease
- Acknowledgement Regulations
- Indicators of Federal Jurisdiction

Consultation Dates

- June 29 – Minneapolis
- July 1 – Sacramento
- July 8 - Washington, DC

- We are planning additional meetings around the July 8th Consultation

New Litigation

- Announced this morning
- NCAI v. Hotel Fire Alarm Systems
- Not a sovereignty case
- Severe Nuisance Lawsuit