

May 10, 2019

The Honorable Raul Grijalva, Chairman
House Natural Resources Committee

The Honorable Rob Bishop, Ranking Member
House Natural Resources Committee

The Honorable John Hoeven, Chairman
Senate Committee on Indian Affairs

The Honorable Tom Udall, Vice Chairman
Senate Committee on Indian Affairs

The Honorable Ruben Gallego, Chairman
Indigenous Peoples Subcommittee

The Honorable Paul Cook, Ranking Member
Indigenous Peoples Subcommittee

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



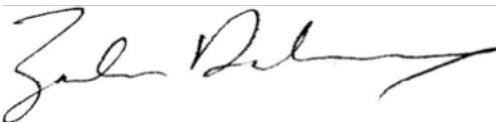
Cris Stainbrook, President
Indian Land Tenure Foundation



LaDonna Harris, President
Americans for Indian Opportunity



Frank Cloutier, President
Midwest Alliance of Sovereign Tribes



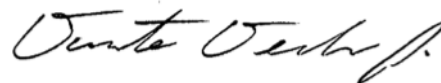
Zach Ducheneaux, Executive Director
Intertribal Agriculture Council



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



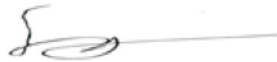
Ernie Stevens Jr., Chairman
National Indian Gaming Association



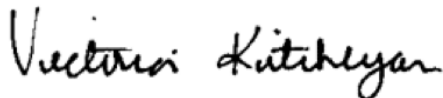
Dante Desiderio, Executive Director
Native American Finance Officers Association



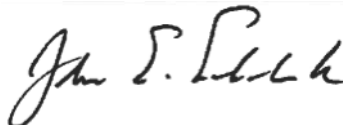
Robert "Tim" Coulter, Executive Director
Indian Law Resource Center



Michael E. Roberts, President
First Nations Development Institute



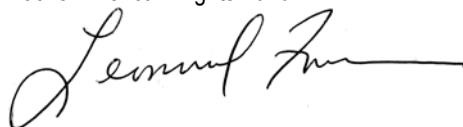
Victoria Kitcheyan, Chairperson
National Indian Health Board



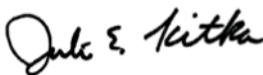
John E. Echohawk, Executive Director
Native American Rights Fund



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



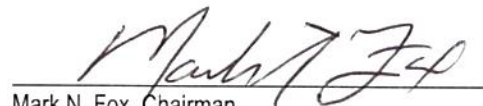
Gerald Gray, Chairman
Rocky Mountain Tribal Leaders Council



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