



July 30, 2010

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The Honorable Dianne Feinstein
Chairwoman
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
Washington, DC 20510

Dear Chairwoman Feinstein:

It is my understanding that Senator Byron Dorgan (D-ND) may be offering an amendment to the Fiscal Year 2011 Interior Appropriations bill that would provide the Secretary of Interior with authority to take land into trust for Indian tribes regardless of whether they were under federal jurisdiction at the time of the passage of the Indian Reorganization Act of 1934. On behalf of the California State Association of Counties (CSAC), I am writing to urge you to oppose this effort.

The Dorgan amendment, which would overturn the Supreme Court's *Carcieri v. Salazar* decision, fails to address the legitimate and long-standing concerns of States and local governments regarding the systemic flaws in the current fee-to-trust process. Additionally, the amendment, which would be considered as a policy rider to an appropriations bill, would not allow for a full and open debate on the broader policy implications arising from the *Carcieri* decision.

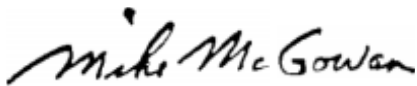
In the wake of the Supreme Court's recent action, CSAC believes that Congress has a rare opportunity to thoughtfully reexamine the fee-to-trust process to ensure that program deficiencies – as well as the needs of tribes and local governments – are addressed. While the Dorgan amendment would level the playing field for tribes seeking to have land taken into trust, it would not address the type of reforms that we believe are long overdue.

As you know, the current fee-to-trust process has a number of programmatic defects, including a lack of clearly defined standards for trust land acquisitions. In addition, there are insufficient notification requirements, meaning local governments are often forced to resort to Freedom of Information Act requests to determine if petitions for Indian land determinations have been filed in their jurisdictions. Accordingly, legislative and regulatory changes need to be made to ensure that affected governments receive timely notice of fee-to-trust applications for tribal development projects and have adequate opportunity to provide meaningful input. CSAC also believes that intergovernmental agreements should be required between tribes and local governments to require mitigation for adverse impacts of development projects, including environmental and economic impacts from the transfer of the land into trust.

As an alternative to advancing the Dorgan amendment, we urge Congress to adopt the enclosed Study Amendment, which would direct the Department of Interior to examine the effects of the *Carcieri v. Salazar* decision. The results of the study would provide Department officials and Members of Congress with a better understanding of whether or not a legislative fix is appropriate. Moreover, while the study is being performed, stakeholders would be provided with sufficient opportunity to work with lawmakers to develop comprehensive legislation aimed at providing meaningful trust land reform.

Thank you for your continued support of California's counties and for your consideration of this request. Should you have any questions regarding our position or need any additional information, please contact Joe Krahn, CSAC Federal Representative, Waterman and Associates at (202) 898-1444, or DeAnn Baker, CSAC Legislative Representative at (916) 327-7500 ext. 509.

Sincerely,

A handwritten signature in black ink that reads "Mike McGowan". The signature is written in a cursive style with a prominent initial "M".

Mike McGowan
Second Vice-President, California State Association of Counties
Supervisor, Yolo County, California
Vice-Chair, National Association of Counties' County & Tribal Government Relationships
Subcommittee

Enclosure