



April 1, 2011

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Dear Members of the California Congressional Delegation:

On behalf of the California State Association of Counties (CSAC), I am writing to reiterate our strong opposition to any legislation that would overturn the U.S. Supreme Court's *Carcieri v. Salazar* decision without providing for concomitant reforms of the land-into-trust process. In *Carcieri*, the Court held that the Secretary of Interior lacks authority to take land into trust for Indian tribes that were not under federal jurisdiction at the time of the passage of the Indian Reorganization Act (IRA) of 1934.

As you may be aware, Representative Dale Kildee (D-MI) earlier this week introduced legislation (HR 1234) that would provide the Secretary of Interior with authority to take land into trust for all Indian tribes. While CSAC supports the rights of Indian tribes to self-governance and recognizes the need for tribes to preserve their heritage and to pursue economic self-reliance, we do not believe that the Secretary of Interior should have unbridled authority to take land into trust for tribes under a broken system. Unfortunately, HR 1234 would simply restore the Secretary's trust land acquisition authority without addressing the fundamental flaws in the fee-to-trust process that have created significant and, in many cases, unnecessary conflict and distrust of the federal decision-making system for trust lands.


Since the *Carcieri* decision in February of 2009, CSAC has called upon Congress to thoughtfully reexamine the long-standing deficiencies in the fee-to-trust process and to provide for necessary reforms. As our association has stated in previous congressional testimony, the current fee-to-trust process as exercised under the IRA and as used under the "restored lands" exception to the Indian Gaming Regulatory Act is contrary to the original legislative intent and is without clear and enforceable standards.

In addition to a lack of clearly defined standards for trust land acquisitions, the current process does not provide for sufficient 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 provide mitigation for adverse impacts of development projects, including environmental and economic impacts from the transfer of the land into trust.

Passage of a “clean” legislative fix to the *Carcieri* decision, as provided for under HR 1234, would fail to address the legitimate concerns of States and local governments regarding the systemic flaws in the current fee-to-trust process. Accordingly, and because of the array of policy considerations that arise from the *Carcieri* decision, CSAC urges you to withhold judgment on *Carcieri*-related legislation until the Natural Resources Committee has convened expected hearings on the matter and has heard from stakeholders regarding the broader implications of this important issue.

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 cursive script that reads "Paul McIntosh".

Paul McIntosh
Executive Director
California State Association of Counties