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The Honorable John Barrasso
Chairman
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso:

On behalf of the California State Association of Counties (CSAC), I am writing to reiterate our appreciation to you for introducing the *Interior Improvement Act* (S. 1879). This important legislation, which would provide long-overdue modifications in the Department of the Interior's trust-land acquisition process, represents the first fee-to-trust reform bill introduced in Congress since the U.S. Supreme Court handed down its *Carcieri v. Salazar* decision in 2009.

CSAC has long recognized the disparity and inequity caused by the *Carcieri* decision and believes that it is the responsibility of Congress to pass legislation that would put all federally recognized tribes on equal footing relative to the opportunity to seek trust land. At the same time, it is absolutely essential that Congress include in any such legislation provisions that would fix the systemic defects in the Department of the Interior's broken fee-to-trust process.

As you know, the 1934 *Indian Reorganization Act* (IRA) provides the Secretary of the Interior with broad discretionary power to take land into trust for the benefit of Indian tribes, an authority that has not been amended by Congress since the IRA's enactment 81 years ago. The Act does not include any limits or standards relative to the exercise of the Secretary's trust acquisition authority, which has left all policies for taking land into trust to the discretion of the Bureau of Indian Affairs (BIA). Unfortunately, the BIA's fee-to-trust process has created significant controversy, serious conflicts between tribes and local governments – including litigation costly to all parties – and broad distrust of the fairness of the system.

While CSAC is unable to offer our full and unqualified support for S. 1879 at this time, we believe that your legislation represents a significant step in the right direction. Among other reforms, CSAC strongly supports provisions of the bill that would require the BIA to provide adequate, up-front notice to counties whenever the agency receives a complete or partial application from a tribe seeking to have off-reservation fee or restricted land taken into trust. Likewise, we support language that would afford counties with an opportunity to review and comment on *all aspects* of a trust-land application.

Moreover, the bill's provisions that would encourage tribes to enter into enforceable cooperative agreements with counties are consistent with CSAC policy. In cases in which tribes and counties have not entered into enforceable agreements, the legislation would require the Secretary of the Interior to make a "Determination of Mitigation" to assess whether anticipated off-reservation impacts associated with a proposed trust acquisition have been sufficiently mitigated. These standards and requirements are representative of the type of criteria that has been altogether

absent from the BIA's administratively driven fee-to-trust process, and we appreciate their inclusion in S. 1879.

I'd also like to express CSAC's gratitude to you for including a number of our association's proposed changes in your upcoming manager's amendment. From broadening the definition of *impacts* to including a definition of the term *mitigate*, these modifications will further improve the fee-to-trust process embodied in S. 1879. We also appreciate that your substitute bill will provide counties with sufficient opportunity to comment on trust-land applications and that the timeframe for the Secretary to both review an application and issue a Determination of Mitigation have been extended.

As the *Interior Improvement Act* moves through the legislative process, we look forward to continuing to work with you, the Committee, and members of our congressional delegation to further improve and strengthen the legislation. To that end, CSAC will continue to advocate for several additional modifications to the bill, such as inclusion of a change-in-use provision, further tightening the bill's "Determination of Mitigation" language to ensure that anticipated impacts are mitigated prior to land being taken into trust, and subjecting contiguous land acquisitions to the provisions of S. 1879. We look forward to providing the Committee with a full list of suggested modifications in the near future.

In closing, CSAC believes that a new fee-to-trust process – one that is rooted in statute, encourages local governments and tribes to work together, and protects the interests of county governments and respects tribal sovereignty – is long overdue. We further believe that S. 1879, while in need of several important revisions, represents the type of balanced approach that is needed in order to address the long-standing problems associated with the BIA's fee-to-trust process.

Again, thank you for your strong leadership on this important issue and for introducing the *Interior Improvement Act*. CSAC looks forward to continuing to work with you and your outstanding staff. Should you have any questions or if you need any additional information, please contact Joe Krahn, CSAC Federal Representative, Waterman and Associates at (202) 898-1444.

Sincerely,



Matt Cate
CSAC Executive Director

cc: Members of the Senate Committee on Indian Affairs
 Senator Dianne Feinstein
 Senator Barbara Boxer
 Members of the House Committee on Natural Resources
 California Congressional Delegation