



**DIANNE JACOB**

SUPERVISOR, SECOND DISTRICT  
SAN DIEGO COUNTY BOARD OF SUPERVISORS

*Serving the  
cities of:  
El Cajon  
La Mesa  
Lemon Grove  
Poway  
Santee*

*Serving the  
communities of:  
Agua Caliente*

*Allied Gardens  
Alpine*

*Barrett  
Blossom Valley*

*Bostonia*

*Boulevard*

*Campo*

*Canebrake*

*Casa de Oro*

*Crest*

*Cuyamaca*

*Dehesa*

*Del Cerro*

*Descanso*

*Dulzura*

*Eucalyptus Hills*

*Fernbrook*

*Flinn Springs*

*Granite Hills*

*Grantville*

*Guatay*

*Harbison Canyon*

*Jacumba*

*Jamul*

*Julian*

*Lake Morena*

*Lakeside*

*Mount Helix*

*Mount Laguna*

*Pine Hills*

*Pine Valley*

*Potrero*

*Ramona*

*Rancho San Diego*

*Rolando*

*San Carlos*

*San Pasqual*

*Santa Ysabel*

*Shelter Valley*

*Spring Valley*

*Tecate*

*Tierra del Sol*

*Vallecitos*

*Serving the Indian  
reservations of:*

*Barona*

*Campo*

*Cosmit*

*Ewiiaapaayp*

*Inaja*

*Jamul*

*La Posta*

*Manzanita*

*Santa Ysabel*

*Sycuan*

*Viejas*

## WRITTEN STATEMENT FOR THE RECORD

DIANNE JACOB

SUPERVISOR, COUNTY OF SAN DIEGO, CALIFORNIA

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES

HOUSE NATURAL RESOURCES COMMITTEE

SUBCOMMITTEE ON INDIAN AND ALASKA NATIVE AFFAIRS

IN THE MATTER OF

H.R. 1291 and H.R. 1234 (Carcieri "fix" bills)

July 12, 2011

## **Introduction**

As a member of the San Diego County Board of Supervisors with eleven Indian reservations in my Supervisorial District, I am writing to state my strong opposition to HR 1291 and HR 1234. It is my understanding that HR 1291 and HR 1234 would overturn the U.S. Supreme Court decision in *Carcieri v. Salazar* (2009; No. 07-526) and reinstate the authority of the Secretary of Interior to take land into trust on behalf of any Indian tribe without providing for concomitant reforms of the land-into-trust process.

I recently traveled to Washington, DC, to discuss matters important to San Diego County and specifically my supervisorial district in East County San Diego. A prominent concern is the federal process of taking land into trust for Indian Tribes, the ultimate use of that land, and its impacts on the people and environment in San Diego County.

San Diego County is home to more Tribal Nations than any other county in the country, with 18 federally recognized Tribes, 18 Reservations, and 17 Tribal Governments. San Diego County is also home to the largest pending fee to trust (FTT) application in the history of California, a 1,966 acre FTT request from the Sycuan Band of Kumeyaay Indians in East County San Diego. Since 2000 more than 56 FTT applications have been filed. One-third of those applications have been granted, and all remaining applications are pending. Recently, requests to transfer land to trust have increased both in number and acreage.

In San Diego County only half of the FTT applications have adhered to the original intent of the land use identified in the application. After lands are taken into trust, future land use decisions regarding these areas are subject only to Tribal Government authority. In addition to the decrease in revenue to local governments from the loss of property tax, sales tax and transient occupancy tax, there are no requirements to comply with a jurisdiction's standard permitting processes, which evaluate or require mitigation for potential impacts in the surrounding area such as fire protection, emergency response, law enforcement services, water supply, air quality, stormwater management, noise, habitat restoration, or other impacts. These permitting and mitigation requirements are mandatory for private property owners as well as governmental entities. Given that tribes see themselves as governmental entities, they should be held to the same standard. If the land is used for purposes other than initially identified and evaluated, there is no federal requirement that the actual use be further assessed or its impacts mitigated. As stewards of the environment and public health and safety, all levels of government have a responsibility to ensure that land uses are properly managed. The FTT process should not ignore this responsibility.

### **Proposed solution**

I seek the assurance that all levels of government, including local government, have a seat at the table and exercise proper authority in crafting and implementing land use decisions. The responsibilities of local government can be satisfied with three basic provisions in the FTT process:

- 1.) Require timely notice to all local jurisdictions for all land development, FTT, and gaming actions and allow for an adequate public comment period of 90 days rather than 30 days as currently provided for many actions.
- 2.) Require a thorough analysis of all environmental impacts for all Tribal development, before and after placing the land into trust, based on the actual use of the land.
- 3.) Require that Tribal Nations work with local governments for concurrence on location and placement of all proposed gaming facilities and other development and enter into a legally binding agreement with the local jurisdiction to mitigate impacts.

Securing these objectives would not impose an unfair burden on Tribal land use activities, but rather ensure consistency with requirements made of other private property owners. Additionally, I do not seek to unjustly elevate the role of local government in the FTT process, but rather correct an existing deficiency that slights the responsibility we have to the residents and environment of our county:

### **Conclusion**

I have worked hard to establish strong working relationships with tribal governments in my district. But I strongly believe that the existing fee to trust process must be revised to protect the public interest. HR 1291 and HR 1234 do not accomplish this goal. While the *Carciari v. Salazar* decision invites debate regarding the application of the fee to trust process, it also provides the opportunity for Congress to address the shortcomings of the existing process. The impacts in San Diego County, like many other counties in California and across the country, require a more thorough evaluation and improvements to the Interior Secretary's authority to acquire land in trust.

I appreciate the opportunity to share my thoughts and ideas on this issue with the subcommittee. For your consideration, I have attached the white paper I shared with Federal entities on my recent trip which outline fee-to-trust issues in San Diego County.