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NATURAL RESOURCES COMMITTEE REPUBLICANS

CONGRESSMAN DOC HASTINGS, RANKING MEMBER

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CONTACT: [Emily Lawrimore](#) or [Jill Strait](#)
202-226-2311

Ranking Member Hastings' Opening Statement at Legislative Hearing to Address *Carcieri v. Salazar* Supreme Court Decision

WASHINGTON, D.C. – House Natural Resources Committee Ranking Member Doc Hastings (WA-04) delivered the following opening statement at today's full committee legislative hearing on two bills ([H.R. 3742](#) and [H.R. 3697](#)) to address the *Carcieri v. Salazar* Supreme Court decision, which found that the Secretary of the Interior does not have the authority to acquire land in trust for tribes not under federal jurisdiction in 1934:

"Mr. Chairman, thank you for holding this hearing.

I believe it is important for Congress to address the post-Carcieri situation on both lands previously taken into trust, and for pending and future land in to trust applications. Congress must work deliberatively and it is our responsibility to consider the views of the many different interests that are affected. Without question, this Committee has a special responsibility to the tribes of the United States, yet elected Representatives also have a responsibility to the communities and states that they are elected to represent.

It would be neither responsible, nor constructive, for this Committee or the Congress to attempt to rush through legislation, like the bills before us today, without considering the views of the states, counties and cities that we represent, and, more importantly, who advanced this case all the way to the United States Supreme Court, where their legal arguments prevailed.

The Attorneys General from 27 states are on record, as either friends of the court in the Carcieri case or through a letter sent to this Committee, as having concerns with the land into trust process and wanting to be engaged in deliberations on Carcieri-related legislation. If they were committed enough to pursue this to the Supreme Court, then such interests are committed enough to come to this Congress and ask the Representatives and Senators from these 27 states to listen to their concerns. It ought to be in the interest of all those committed to addressing the post-Carcieri situation to be involving them in the conversation. That's why it was important that Attorney General Blumenthal of Connecticut, and Mr. Woodside representing Sonoma County, California appear as witnesses at today's hearing.

I do recognize many in this country and in this hearing room disagree with the Supreme Court's decision and the prevailing legal position of the states and local

governments, but it is unreasonable to expect Congress to simply ignore such concerns and fast-track this legislation without considering the effects of these bills.

Let's be clear about what this legislation will do. According to their long titles, the bills are meant to "reaffirm the authority of the Secretary of the Interior to take land into trust for Indian tribes."

In fact, the effect of these bills goes much farther. This legislation would very bluntly overturn the Supreme Court from February, yet it would also delegate to the Secretary of the Interior authorities expressly granted to Congress in Article I, Section 8 of the Constitution. The effect of the legislation would be to give the Secretary nearly unconditional authority not to just take lands into trust, but also unlimited authority to recognize new Indian tribes.

With such a complete transfer of power and authority from Congress to the Secretary, just one individual in the federal government would have the ability to recognize new tribes, take land into trust, and approve gaming compacts to allow new casinos on these lands.

This may strike many, on both sides of the aisle, as going too far and greatly overstepping a direct answer to the Carciari decision.

In addition, I will note that this bill, for the first time ever, would endow the Secretary with new authority to acquire lands in Alaska in trust for Native villages. This, too, exceeds the bounds of a Carciari fix and I certainly hope the views of the State of Alaska will be considered by this Committee as it further considers the legislation.

As I stated at the outset of my remarks, I do fully support the need for action to address the post-Carciari situation confronting tribes and the taking of lands into trust. The question that confronts Congress is how best to do so? In an effort to gather more information about the ramifications of the Carciari decision, the views of Secretary Salazar and the Administration, and the possible options that this Congress might have in addressing this issue, I sent a letter to the Secretary last Friday with a number of questions. It was my hope that by giving advance notice of questions that the Department's witness would come prepared with answers, so that we may have a more productive hearing. I request that a copy of my letter be made part of the hearing record. And I look forward to the testimony of today's witnesses."

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