

CARCIERI FIX

June 2018

THE SITUATION



Under the 1934 Indian Reorganization Act (IRA), the federal government and tribes can place additional land in trust in order to "...conserve and develop Indian lands and resources," and to rehabilitate Indian economic life. Up until 2009, the Department of the Interior consistently interpreted the IRA as authorizing the Secretary of the Interior to place land into trust for any tribe, so long as that tribe was federally recognized at the time of the trust application. However, in 2009, the **Supreme Court ruled in the *Carcieri* decision that only federally recognized tribes at the time the IRA became law are able to take land into trust.** Many tribes recognized after 1934 are now in danger of losing the ability to take land into trust, and some would even question the validity of their current land.

WHAT'S THE PROBLEM?

The year 1934 was never intended to be a hard deadline for tribal recognition, and many tribes have been federally recognized since that time. The *Carcieri* decision has wrongfully called into question the status of tribal lands across the country, causing costly litigation and harmful delays in critical infrastructure development.

THE FACT

Approx. **9 million** acres of land have been taken into trust status since 1934 by the Department of the Interior (NCAI).

WHY SHOULD AMERICANS CARE?

The ambiguity the *Carcieri* decision created is jeopardizing the ability for tribes to rebuild their communities through economic development. Acquisition of trust land for the benefit of Indian tribes is vital to their self-determination and economic prosperity.

WHAT'S CONGRESS DOING?

Nothing. It has been almost a decade since the *Carcieri* decision, yet the GOP majority has taken no action to address the issue.



Democrats have consistently supported a simple "clean" fix to the *Carcieri* decision that would amend the language of the IRA to reestablish the Department of the Interior's authority to take land into trust for all tribes, simply reaffirming what the drafters of the IRA intended all along.



The GOP would rather use this issue as a political football in their quest to redefine tribal sovereignty, as well as to stall economic development on Indian lands.

HOW DO WE MOVE FORWARD?

The *Carcieri* decision unwound 75 years of agency practice, and in the process has created a two-tiered system for federal-tribal relationships. **Congress must pass a "clean" *Carcieri* fix, which would address the issue by reaffirming the ability of all tribes to take land into trust.**