

**TESTIMONY OF JANICE MABEE, CHAIRMAN OF THE
SAUK-SUIATTLE INDIAN TRIBE
SUPPORTING H.R. 3742**

November 4, 2009

10:00 am

U.S. House of Representatives
1324 Longworth House Office Building

Mr. Chairman, members of the Committee, thank you for the opportunity to provide testimony on behalf of the Sauk-Suiattle Indian Tribe in support of clarifying the Indian Reorganization Act of 1934 through H.R. 3742, "To amend the Act of June 18, 1934, to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian Tribes."

In February of 2009, the Supreme Court issued a decision in *Carcieri v. Salazar* that is creating significant confusion in an important area of federal Indian law, the Indian Reorganization Act of 1934 (IRA). The Supreme Court overturned seventy (70) years of longstanding interpretation and held that the phrase "now under Federal jurisdiction" limits the Department of Interior's authority to provide benefits under the IRA to only those Indian tribes "under federal jurisdiction" on June 8, 1934.

The passage of the IRA in 1934 marked a dramatic change in federal Indian policy. Congress shifted from policies intended to destroy Indian tribes in favor of legislation to revitalize tribal governments and Indian culture, and to restore tribal land bases that had been decimated by prior federal policies. The *Carcieri* decision is at odds with Congress' intent to restore tribal self-determination. In particular, this decision runs counter to Congress' intent in the 1994 amendments to the IRA which provide equal treatment to all Indian tribes regardless of how or when they received federal recognition.

The Sauk-Suiattle Indian Tribe is a tribe that has been adversely impacted by this confusion. We are located in the Cascade Mountains of northwestern Washington near the confluence of the Sauk and Suiattle Rivers, where we have lived for countless generations. The Tribe has adjudicated treaty rights under the 1855 Point Elliott Treaty.¹ And in 1913, Congress appropriated funds for the purchase of lands to be held in trust for the Sauk-Suiattle Tribe.²

Long ago, before there were any white people in the area, we lived on both sides of the Sauk River at Sauk Prairie. This was the site of one of our major villages. However, in the 1880's, the United States gave our fertile lands at Sauk Prairie to non-Indians, who burned the Tribe's longhouses that had stood there for generations, leaving my people landless and scattered. Many

¹ *United States v. Washington*, 384 F.Supp. 312 (W.D.Wash. 1974).

² Act of June 30, 1913 (38 Stat. 101). Although the legislation refers to the "Skagit Tribe of Indians," that was not the specific name of any tribe, and was understood by the Department of the Interior to refer to both the Sauk-Suiattle Tribe and the Upper Skagit Tribe.

tribal members, including my great-grandparents, retreated to more remote land up the Suiattle River, where some members built houses.

I grew up on the Suiattle River, on a trust allotment which the United States, in an effort to address the displacement from our land, issued trust patents to us in the early 1920's. This was long before the passage of the Indian Reorganization Act of 1934. I vividly remember bathing every day in the icy glacier runoff of the Suiattle River, hiding inside huge cedar root baskets woven by my great grandmother who helped raise me, learning to gather and weave and skin game. We lived by fishing, hunting and gathering.

In addition to the destruction of one of the Sauk-Suiattle Tribe's major villages, the Tribe suffered in another way. Ignorance led to the belief by some that Sauk-Suiattle was not a separate tribe. We existed deep in the Cascade mountains, a uniquely distinct tribe, referred to by the BIA as a "traditional tribe." Little was known about our people and non-Indian researchers, for their convenience, often lumped us in with other tribes. But over the decades, the Tribe continued to exist and to live in the area of its homeland, despite the challenges not faced by larger tribes that were given substantial reservations. In a 1972 letter from the Deputy Commissioner, the Tribe was described as having an "organizational status" that was "traditional in nature." On April 6, 1935 the Tribe voted to adopt the IRA. In 1975, the Tribe adopted a Constitution that was approved by the Secretary of the Interior under the authority of the IRA.

In 1982, two small parcels of land totaling about 23 acres were taken into trust for the Tribe and designated as our Reservation. That land, however, is broken into two parcels miles apart and is insufficient for tribal housing, for tribal government facilities, and for economic development, and is threatened by flooding from the Sauk River, which has been designated as "wild and scenic."

Despite treaty rights dating from the mid-eighteenth century, despite the 1913 Congressional appropriation, despite allotments dating from the early twentieth century, and despite an April 6, 1935 vote by the Tribe to accept the IRA, in order to "organize," under the Act, the Sauk-Suiattle Tribe is being adversely impacted by the *Carcieri* decision. What more do you want to do to us?

And now, because of the confusion generated by the *Carcieri* decision and the unwillingness of the Regional Solicitor to make decisions without written guidance from the Department of the Interior a simple fee to trust application for a 1.64 acre parcel of land adjacent to the reservation, has been put on hold.

The Sauk-Suiattle Tribe does not have a casino. We are simply trying to acquire enough land to provide homes for our members and sites for tribal government facilities and economic development so that tribal members and their families can obtain employment and receive tribal government services near their homes. We have built twenty houses on our reservation, but they are insufficient to meet tribal demand and are threatened by flooding.

We feel it is critical to clarify that the IRA is not related to Indian gaming. Indian gaming is regulated under the Indian Gaming Regulatory Act, (IGRA) where Congress restricted gaming on lands acquired after 1988. The issue is much broader and more fundamental. The IRA is a toolbox for restoring tribal communities and building economic growth. We are concerned that these tools are weakened at a time when Indian reservations and the cities, counties and states that surround

them, need economic aid the most.

Tribes that were not formally “recognized” in 1934 typically do not have large reservations. In fact, they are the very tribes most in need of having land taken into trust for housing, government facilities, and economic development. By treating tribes formally “recognized” after 1934 differently than those recognized earlier, the Supreme Court has essentially punished the tribes who have already suffered the most, and who face the greatest struggle to preserve a homeland, provide government services, and foster economic development. I hope that the Committee will recognize this fundamental injustice, and will act quickly and decisively to correct it.

The Sauk-Suiattle Tribe is very concerned that if the *Carcieri* decision stands unaddressed by Congress, it will engender confusion and litigation on a broad range of issues. The IRA is a comprehensive federal law that provides not only the authority of the Secretary to restore tribal lands, but also for the establishment of tribal constitutions and tribal business structures. Disorder in this area of the law will negatively affect all types of economic development, contracts and loans, tribal reservations and lands, and could negatively affect tribal and federal jurisdiction, public safety, and provision of services on reservations across the country.

Legislation is currently pending in both the Senate and the House that would provide a solution and clarify the authority under the IRA. The Senate version, S. 1703 sponsored by Senator Byron Dorgan, already has eight (8) co-sponsors. Two functionally identical *Carcieri* fixes have also received significant support in the House, sponsored by Representative Dale Kildee and Representative Tom Cole.

On behalf of the Sauk-Suiattle people I urge the Committee to support this legislation.

Thank you.

Janice Mabee
Chairman
Sauk-Suiattle Indian Tribe