

State Attorneys General

A Communication From the Chief Legal Officers
of the Following States and Territories:

Alaska * Colorado * Connecticut * Florida
Hawaii * Iowa * Kansas * Massachusetts * Michigan
Mississippi * Ohio * Rhode Island * South Carolina
South Dakota * Tennessee * Texas * Utah

April 24, 2009

The Honorable Byron L. Dorgan
Chairman
Committee on Indian Affairs
United States Senate

The Honorable John Barrasso,
Vice Chairman
Committee on Indian Affairs
United States Senate

The Honorable Nick J. Rahall, III
Chairman
Committee on Natural Resources
United States House of Representatives

The Honorable Doc Hastings
Ranking Member
Committee on Natural Resources
United States House of Representatives

Via Facsimile

RE: Congressional Committee Hearings re: *Carcieri v. Salazar*, 555 U.S. _____ (2009)

Dear Senators Dorgan and Barrasso and Representatives Rahall and Hastings:

The undersigned Attorneys General understand that the Senate Committee on Indian Affairs and the House Natural Resources Committee have conducted a hearing on the potential impacts of the recent United States Supreme Court decision in *Carcieri v. Salazar*, 555 U.S. _____ (2009). The *Carcieri* decision recognized Congress' original intent to limit the authority of the Secretary of Interior to take lands into trust for only those tribes that were recognized at the time the Indian Reorganization Act was enacted in 1934.

A March 13, 2009, story in "Indian Country Today" stated that Indian country officials are calling for a quick legislative fix so that state and local interests will not have time to make arguments that Congress should let the *Carcieri* decision stand. The undersigned believe it would not be in the best interests of all stakeholders, both Indian and non-Indian, to rush a legislative fix and to ignore legitimate state and local interests. The goal of any legislation should be to craft a workable process that allows all interested parties an opportunity to be heard.

Each exercise of the Secretary's authority to take land into trust has substantial impact on state and local communities. Taking land into trust deprives the local units of government and the state of the ability to tax the land and calls into question the power of state and local government to enforce civil and criminal laws on the land.

The *Carcieri* decision is only one highly visible example of the larger frustration many states feel with the existing regulatory process for taking land into trust. The current process does not provide for meaningful

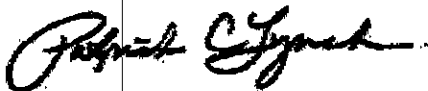
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analysis or weighing of the input of states and local units of government and is void of binding limits on the discretion of the secretary. Moreover, the Department of Interior has promised to review and rewrite the current regulations. That promise was made nearly a decade ago, but the regulatory process remains stalled.

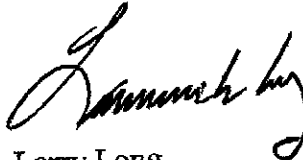
The undersigned Attorneys General request that they be allowed to participate in any discussions regarding legislation affecting the Secretary's authority to take land into trust because of the significant impacts such legislation has on the states. The process used to draft any legislation must include all of the stakeholders in order to reduce the potential for disputes and further litigation. The states recognize that, in some instances, taking land into trust for Tribes can be beneficial to all concerned, but it can be detrimental if the trust determinations that are ultimately made unjustifiably undermine the ability of state and local governments to carry on their core functions.

We have been advised that the Committee has committed to move carefully and deliberately in crafting any response to *Carcieri*. We applaud such an approach and respectfully request that we be included in the process so that we can articulate our concerns on behalf of our citizens.

Sincerely,



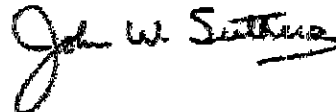
Patrick C. Lynch
Rhode Island Attorney General



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Wayne Anthony Ross
Alaska Attorney General



John W. Suthers
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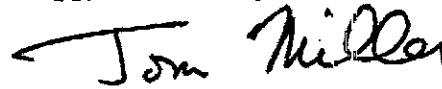
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Bill McCollum
Florida Attorney General



Mark J. Bennett
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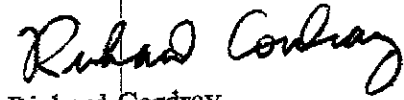
Steve Six
Kansas Attorney General

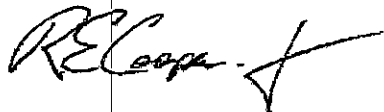



Martha Coakley
Massachusetts Attorney General

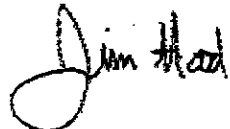
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Michael Cox
Michigan Attorney General

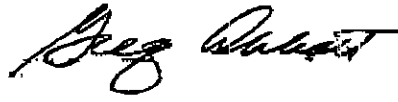

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