

Testimony of the National Congress of American Indians President Jefferson Keel

The Indian Reorganization Act 75 Years Later: Renewing our Commitment to Restore Tribal Homelands and Promote Self-Determination

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Our predecessors had a shared vision for our future as Indian people. Indian reservations should be places where the old ways are maintained, our languages are spoken, and our children learn our traditions and pass them on to the next generation. They are places where there are fish in the streams and game in the field and our food and medicines grow wild for harvest -- places where our people can live and be Indian.

At the same time, this vision includes modern life – economic development to sustain our people; safety and respectful relationships with our neighbors; and the blessings of education, healthcare and modern technology help us thrive.

This vision that was shared by the U.S. Congress in 1934 when it passed one of the most important federal laws in the history of our country – the Indian Reorganization Act. With the IRA, Congress renewed its trust responsibility to protect and restore our tribal homelands and the Indian way of life. Two years ago, our shared vision and the federal responsibility to Indian tribes were threatened by the Supreme Court’s interpretation of the IRA in *Carciere v. Salazar*.

Prior to 1934, the federal government policy toward Indian tribes was to sell off the tribal land base and assimilate Indian people. “Kill the Indian and Save the Man” was the slogan of that era. The federal government did everything it could to disband our tribes, break up our families, and suppress our culture. 90 million acres of tribal land that was held under treaties were taken, more than two thirds of the tribal land base, and the remaining lands were often of little value for development or agriculture. By the 1930’s the allotment and assimilation policies were widely recognized as failures. The policies did little more than inflict great suffering on Indian people and dishonor on our Nation.

In 1934, Congress rejected allotment and assimilation and passed the IRA. The clear and overriding purpose of Congress was to re-establish the tribal land base and restore tribal governments that had withered under prior federal policies. The legislative history and the Act itself are filled with references to restoration of federal support for tribes that had been cut off, and “to provide land for landless Indians.”

A problem with our legal system is that the lawyers sometimes lose sight of the fundamental purpose of a law, debate the meaning of a few words, and suddenly the law is turned on its head.

Today, because of the *Carcieri* decision, we have opponents arguing that tribes are not eligible for the benefits of the IRA if they were not under active federal supervision by the BIA in 1934, or if they did not have lands in trust 1934. Both of these arguments are contrary to the basic purpose of the law to re-establish federal support for tribes that had been abandoned or ignored by the BIA, and to restore land to tribes that had little or no land.

Today, 75 years later – the IRA is just as necessary as it was in 1934. The purposes of IRA were frustrated, first by WWII and then by the Termination Era. The work did not begin again until the 1970's with the Self-Determination Policy, and since then Indian tribes are building economies from the ground up, and must earn every penny to buy back their own land. Still today, many tribes have no land base and many tribes have insufficient lands to support housing and self-government and culture. We will need the IRA for many more years until the tribal needs for self-support and self-determination are met.

Two years have passed since the *Carcieri* decision, and our fears are coming to pass. There are at least fourteen pending cases where tribes and the Secretary of Interior are under challenge. There are many more tribes whose land to trust applications have simply been frozen while the Department of Interior works through painstaking legal and historical analysis. We are seeing harassment litigation against tribes who were on treaty reservations in 1934 with a BIA Superintendant. It is litigation merely for the purposes of delay. Land acquisitions are delayed. Lending and credit are drying up. Jobs and opportunities are lost or never created. We fear that this will continue to get worse until Congress acts. Even worse, that this decision will create two classes of Indian tribes – those who will benefit from the federal trust responsibility and those who will not.

Thank you Chairman Akaka and Vice Chairman Barrasso, and all the members of the Senate Committee on Indian Affairs for your work to pass the necessary legislation that will address this pressing problem and return us to the understanding of the law that existed for 75 years prior to the Supreme Court's decision. I am confident that we will succeed, because our shared vision for the future of Indian people is the right one. We deeply appreciate your efforts on this issue and so many others.