



NATIONAL INDIAN GAMING ASSOCIATION

Rebuilding Communities Through Indian Self-Reliance

NATIONAL INDIAN GAMING ASSOCIATION RESOLUTION

#1-SAN-AM-4-15-10

TITLE: To Support Legislation to Address the Supreme Court decision in *Carcieri v. Salazar*.

WHEREAS, the National Indian Gaming Association (NIGA) is an intertribal association of 184 federally recognized Indian Tribes established to support Indian gaming and defend Indian sovereignty; and

WHEREAS, Indian Tribes are sovereigns that pre-date the United States, with prior and treaty protected rights to self-government and to our Indian lands, and

WHEREAS, the Constitution of the United States, through the Treaty, Commerce, and Apportionment Clauses and the 14th Amendment, recognizes the sovereign status of Indian Tribes as Native nations established prior to the United States; and

WHEREAS, the Indian Gaming Regulatory Act (the “IGRA”) acknowledged and confirmed the inherent sovereign powers of Tribal Governments; and

WHEREAS, On February 24, the Supreme Court held in *Carcieri v. Salazar*, 129 S.Ct. 1058 (2009) that the Secretary of the Interior lacks authority to take land into trust under the Indian Reorganization Act (25 U.S.C. secs. 465, 479) for Indian tribes that were not under Federal jurisdiction at the time of its passage in 1934; and

WHEREAS, the *Carcieri* decision interferes with trust land acquisitions for Indian tribes who, arguably, were not under Federal jurisdiction in 1934 and may give rise to Federal court challenges to the Indian trust lands of such Indian tribes and so threaten Indian lands; and

WHEREAS, the United States has wrongfully divested Indian tribes of far too much of our aboriginal homelands; and

WHEREAS, to address some of the wrongful policies of the 19th Century and early 20th Century, including removal, allotment and forced assimilation of Indian tribes, President Franklin D. Roosevelt announced the “New Deal” for Indian tribes through the Indian Reorganization Act (IRA), which was enacted to provide the Secretary with authority to acquire lands in trust for Indian tribes and Indians; and

WHEREAS, *Carcieri* overturns nearly 75 years of settled Indian trust land law by limiting the Secretary’s authority to acquire land in trust for Indian tribes “now under Federal jurisdiction” in 1934 at the time of the IRA’s passage; and

WHEREAS, Federal law immunizes Indian trust lands from state taxation and it shields tribal members from state and local regulation on trust land. With respect to such lands, the power to tax and regulate is vested in the federal government and the tribes themselves; and

WHEREAS, the United States has sovereign immunity from challenges to title to land held by the United States except as provided in the Quiet Title Act and a plaintiff must “set forth with particularity the nature of the right, title, or interest which the plaintiff claims in the real property [held by the United States and] the circumstances under which it was acquired,” 28 U.S.C. sec. 2409(d); and

WHEREAS, NIGA passed Resolution #2-PHX-AM-4-15-09 To Call Upon the United States to Defend All Indian Trust Lands of All Indian Tribes from Any Third Party Claims and to Seek Legislation to Address the Supreme Court decision in *Carcieri v. Salazar* at the 2009 NIGA Annual Meeting;.

NOW THEREFORE BE IT RESOLVED, that the President and Congress must act immediately to reverse the wrongly decided *Carcieri* case by enacting S. 1703 and H.R. 3742, a bill to amend the Indian Reorganization Act to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian tribes.

BE IT FINALLY RESOLVED, that this resolution shall be the policy of National Indian Gaming Association until withdrawn or modified by subsequent resolution.