Opening Statement—Hearing

House Natural Resources Subcommittee on Indian and Insular Affairs

H.R. 1208, *Carcieri* Fix and H.R. 6160, Poarch Band of Creek Indians Lands Act

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Thank you, Chairman Westerman, Chairwoman Hageman, Ranking Member Leger Fernandez, and members of this Subcommittee. It is a great honor to be here. I thank this subcommittee for all its hard work on behalf of Indian Country and particularly, today, for holding this hearing on my legislation, H.R. 1208, which would amend the Indian Reorganization Act of 1934, and reaffirm the authority of the Secretary of the Interior to take land into trust for Indian tribes.

As many of you know, I have been a champion on this issue for the past 15 years since the Supreme Court's 2009 *Carcieri vs. Salazar* decision. As an enrolled member of the Chickasaw Nation of Oklahoma, I cannot overstate the importance of Tribal sovereignty and the relationships that members of Tribes have with their land, their identity, and their culture. Unfortunately, many were forcibly removed to unknown areas after the Indian Removal Act, which often resulted in residing on lands that

provided no opportunity to prosper. However, trust land offers tribes the ability to expand economic development and provide for their people. Tribes use land in trust to build schools, housing, and health centers in their communities. In fact, in some rural areas, Tribal nations are often the largest employers and health service providers in the community. Tribes also rely on their trust land to produce both renewable and conventional energy, as well as use the land for agriculture production. In addition, trust land allows Tribes to provide essential government services, like Tribal police and courts.

However, in 2009, the Supreme Court uprooted seventy years of precedent and turned the entire notion of Tribal sovereignty on its head when it ruled that the Indian Reorganization Act questioned the authority for the Secretary of the Interior to take land into trust because the Court interpreted the statute only applying to the Tribes under Federal recognition when the law was enacted in 1934. This decision created two different classes of Indian Tribes: those that can have land into trust and those that cannot.

This two-class system is detrimental to so many Native communities, as it excludes so many of them from exercising their legal right to act as a sovereign nation and deal directly with the United States on a government-to-government basis. This decision by the Court makes it harder for Tribes to manage and expand their territory, as well as puts millions of dollars' worth of trust land in legal limbo.

This is unacceptable. Congress is long-passed overdue to correct the law as the Supreme Court interpreted it when the Court made the *Carcieri* decision. Without a legislative fix, tribes' financial resources and decades will be spent on litigation and disputes between Tribes and state and local governments.

However, those arguing against a legislative fix claim this is all about gaming. Let me be clear – this is false. In fact, out of the 961 total pending fee-to-trust applications, only 26 are gaming applications. And out of the 4,349 approved applications from 2009 to 2023, only 48 of them were for gaming purposes. That is only 1.1 percent.

Others claim that trust land is undermining States' tax base. Again, this is false. Trust land is like all other federal pieces of land, like military bases or national parks, that are not subject to state taxation. Impact aid and payments in lieu of taxes address these shortfalls. In reality, trust land is only 8.75 percent of the total federal land base.

At the end of the day, there is no reason to oppose the *Carcieri* Fix legislation. In fact, Chairman Westerman and Chairwoman Hageman, if Congress fails to act, the standard set forth in *Carcieri vs. Salazar* will continue to devastate Tribal sovereignty and economic development in Native and non-Native communities. Resolving any ambiguity in a tribe's ability to put land into trust, no matter when they were federally recognized, is vital to protecting Tribal interests and avoiding costly and protracted litigation. I truly believe this legislation, as well as H.R. 6160, introduced by my good friend from Alabama and fellow Appropriator, Mr. Carl, are vital to preserving many Native American communities and I appreciate the opportunity to testify in favor of these bills.