Committee on Natural Resources

Rob Bishop, Chairman

Markup Memorandum

January 29, 2016

To: All Natural Resources Committee Members

From: Majority Committee Staff
Subcommittee on Indian, Insular, and Alaska Native Affairs (x6-9725)

Markup: Markup on H.R. 2538 (Rep. Jared Huffman, D-CA), To take lands in Sonoma County, California, into trust as part of the reservation of the Lytton Rancheria of California, and for other purposes.
February 2-3, 2016 1324 Longworth HOB

H.R. 2538 (Rep. Jared Huffman, D-CA), *"Lytton Rancheria Homelands Act of 2015"*

Summary of the Bill:

H.R. 2538, the *"Lytton Rancheria Homelands Act of 2015*," was introduced by Rep. Huffman on May 21, 2015 and has been referred to the Subcommittee on Indian, Insular and Alaska Native Affairs. The bill would take into trust approximately 511 acres of non-contiguous fee land owned by the Lytton Rancheria adjacent to the town Windsor, CA (Sonoma County, CA). Under the bill, gaming under the Indian Gaming Regulatory Act[1] is prohibited on these lands. Two maps of the lands to be taken into trust are attached to this memo.

Cosponsors:

Rep. Jeff Denham and Rep. Mike Thompson.

Background:

The Lytton Rancheria is a tribe of approximately 220 members from the San Francisco Bay area of California. From the late 1930s to the late 1950s, the Rancheria was composed of the descendants of two families who lived on the 50 acre Lytton Rancheria in Sonoma County's Alexander Valley, about 80 miles from the City of San Pablo in the San Francisco Bay Area. The original 50 acre Rancheria was established under the Landless and Homeless Indian Act in 1926. During the termination policy era of the 1950s, Congress terminated the Rancheria, along with other Rancherias, under the Rancheria Act of 1958.[2] Subsequently, title to the Rancheria land was transferred to individual members, who subsequently sold the land to non-Indians.

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[1] 25 U.S.C. 2701 et seq.

[2] See 72 Stat. 619.

In the 1980s, aided by the California Indian Legal Services, the Lytton Rancheria joined a lawsuit against the Bureau of Indian Affairs challenging the congressional termination. In 1991, the U.S. District Court for Northern California approved a Stipulated Settlement negotiated between the government and a number of terminated Rancherias under which the government would recognize the Rancherias as tribes. The settlement did not restore the original Rancheria to them or otherwise provide any land. The court did, however, issue a Stipulated Judgement under which lands could be placed in federal trust for the Rancheria in Sonoma County.[3] At the insistence of Sonoma County, restrictions were placed on land acquired by the Lytton Rancheria in the Alexander Valley and within the original Rancheria boundaries. These restrictions included a requirement placed on the Rancheria to follow the Sonoma County General Plan within Alexander Valley.

In the final days of the 106th Congress, H.R. 5528, the Omnibus Indian Advancement Act[4] was passed by Congress (enacted as P.L. 106-568). Section 819 of this act required the Secretary of the Interior to acquire title to a 9.5 acre parcel land, on which a cardroom was located, in San Pablo (Contra Costa County), California, in trust or the benefit of the Lytton Rancheria. The act further provided that "[s]uch land shall be deemed to have been held in trust and part of the reservation of the Rancheria prior to October 17, 1988."

The effect of backdating the trust acquisition was to grant the tribe the right to operate a casino pursuant to the Indian Gaming Regulatory Act of 1988. Though Senator Dianne Feinstein subsequently introduced legislation in the 108th through 112th Congresses to require the tribe to follow the same process other tribes must follow when seeking to conduct gaming on lands acquired in trust after October 17, 1988, and to limit the ability of the tribe to expand its gaming rights, such bills were not enacted into law, and the tribe converted the San Pablo cardroom into a class II casino.

In recent years, the tribe has used revenues from its casino to purchase a number of parcels just outside the city limits of Windsor in Sonoma County. In 2009, the tribe applied to the Department of the Interior to place title to approximately 127 acres of lands acquired in this area in trust. The application is still pending with the Department of the Interior. The tribe has testified that it intends to use a portion of the lands for tribal housing, while the rest would support a diverse range of economic development including plans for a future resort and winery. Land held in trust for a tribe is not subject to local and state taxation and regulation, including zoning.

Local Stakeholder Agreements:

The Lytton Rancheria currently has Memoranda of Agreement (MOA) with the County of Sonoma. Under the MOA, the tribe has agreed to mitigate impacts that development of land acquired in trust might have on the surrounding communities, and to make substantial continuous payments to the County to fund this obligation to offset the loss of tax revenue to the county should the lands be placed in trust.

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[3] *Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria v. United States*. No. C-86-3660 (N.D. Cal. 1991).
[4] See P.L. 106-568.

In addition to an MOA with the County of Sonoma, Lytton Rancheria has also entered into agreements with the local school district, the local fire department and is working with the City of Windsor to ensure appropriate water and sewer hookup. The tribe has agreed to provide substantial financial support to fund local priorities. The Tribe has agreed to pay the County $6 million to mitigate the impact of, among other things, the loss of trees in the housing area. This agreement would be subject to renewal in 2037. The Tribe has further agreed to make continuous, yearly payments to the County based on the assessed value of tribal land, and will pay to the County 9% of fees collected for the rental of hotel rooms or vacation homes.

Analysis of H.R. 2538:

H.R. 2538 would place approximately 511 acres of non-contiguous fee land owned by the Rancheria in trust, subject to valid and existing rights, contracts, and management agreements. Under the bill, gaming under the Indian Gaming Regulatory Act would be prohibited on these lands. Under the bill, the MOA dated March 10, 2015, entered into between the tribe and the County concerning the taking of land into trust, would not be subject to review or approval by the Secretary.

Cost:

The committee has not received an official CBO score for H.R. 2538.

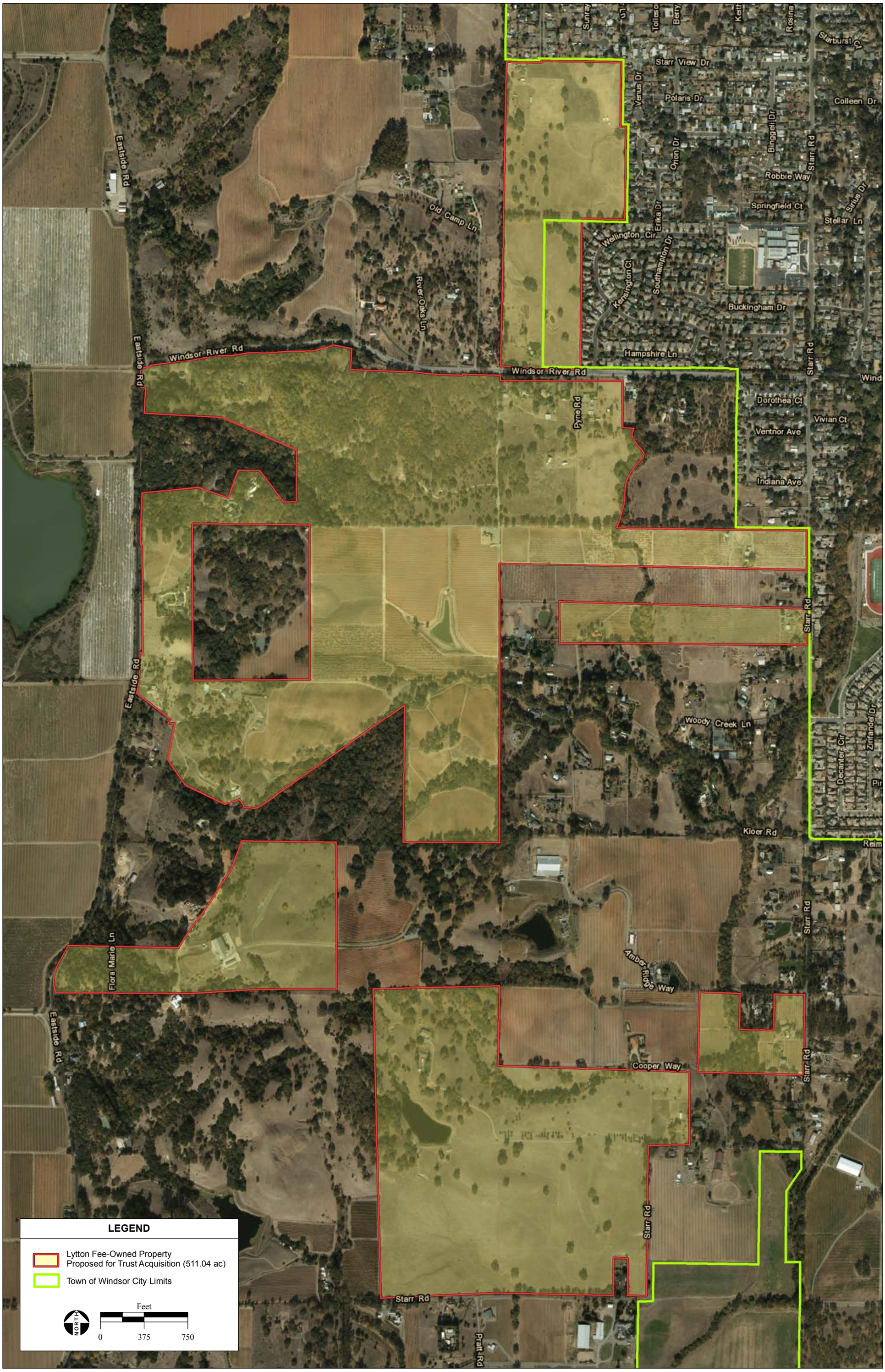
Administration's Position:

At the June 17, 2015 subcommittee hearing on the bill, a witness for the Department of the Interior testified that the Administration supports the bill with some amendments.

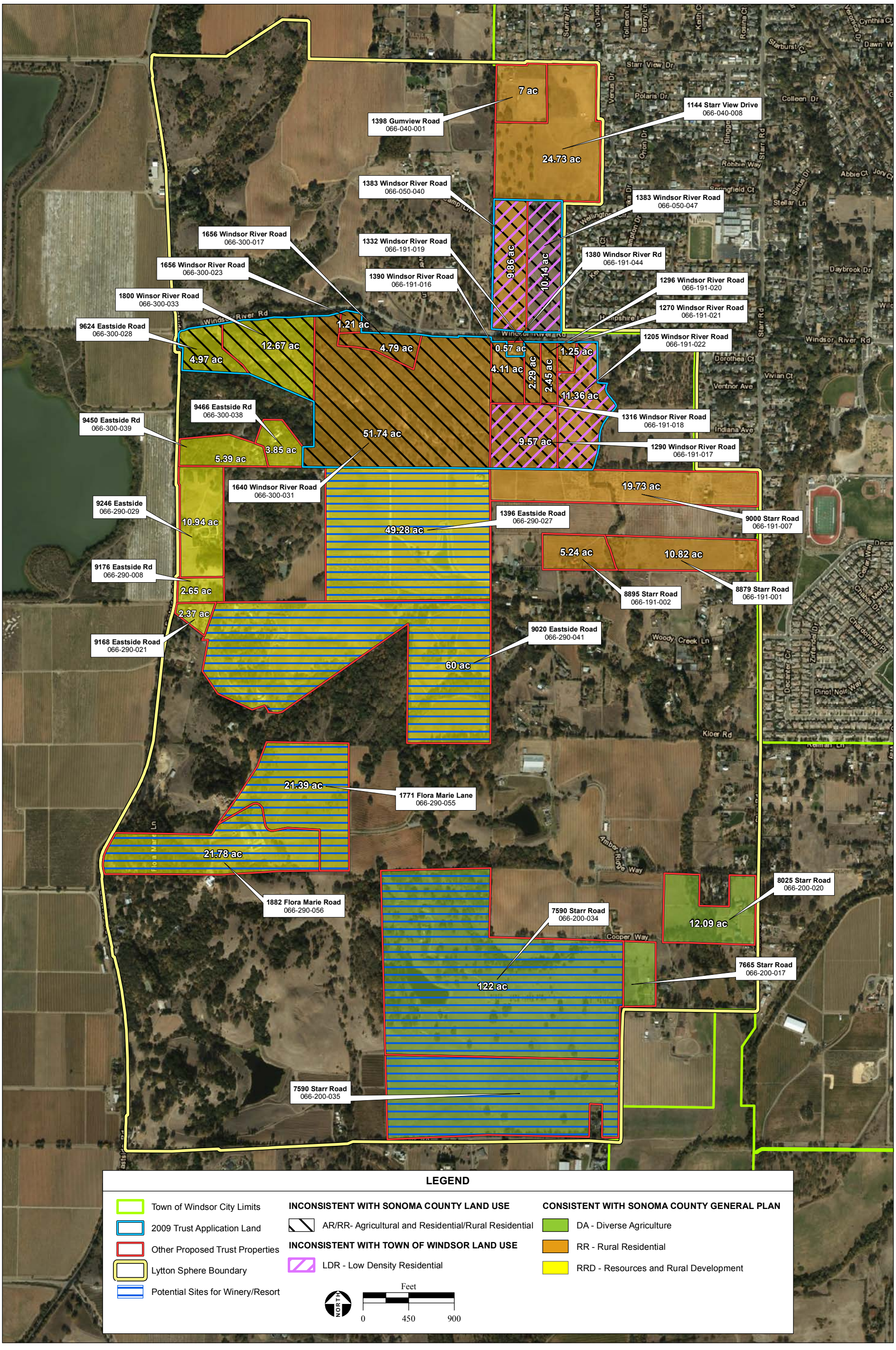
Anticipated Amendment:

No amendment has been filed, but an amendment filed by the bill's sponsor to address gaming issues is expected.

Lytton Fee Owned Property to be Taken into Trust - May 1, 2015



SOURCE: Sonoma County General Plan 2020, updated 2012; USDA aerial photograph, 6/13/2010; AES, 5/7/2015



SOURCE: Sonoma County General Plan 2020, updated 2012; USDA aerial photograph, 6/13/2010; AES, 4/27/2015

Lytton / 207513 ■

Exhibit A

Future Land Consistency