

TESTIMONY OF CHAIRPERSON MARGIE MEJIA
LYTTON RANCHERIA, SANTA ROSA, CALIFORNIA
BEFORE HOUSE NATURAL RESOURCES SUBCOMMITTEE
ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS
H.R. 2538
LYTTON RANCHERIA HOMELAND ACT OF 2015
JUNE 17, 2015

Good morning Chairman Young, Ranking Member Ruiz and Members of the Subcommittee on Indian, Insular and Alaska Native Affairs. My name is Margie Mejia, Chairperson of the Lytton Rancheria in Santa Rosa, California. Thank you for allowing me to be here today to speak in strong support of H.R. 2538, the Lytton Rancheria Homeland Act of 2015. A special thank you to our Congressman Jared Huffman for working with the Tribe to introduce the bill and to our neighboring Congressman Jeff Denham for supporting us and cosponsoring the bill.

If enacted, H.R. 2538 would right a historical wrong and restore a permanent homeland for the Lytton Rancheria now and for our future generations. The bill would provide that lands currently owned by the Tribe in fee be held in federal trust and have reservation status. On behalf of the members of the Lytton Rancheria of California, I ask that you support the Lytton Rancheria Homeland Act of 2015.

Background

The Lytton Rancheria is a federally recognized Pomo Indian Tribe from California's San Francisco Bay area. Prior to European contact it is estimated that as many as 350,000 Indians were living in what is now the State of California. By the end of the 19th Century, that number was reduced by ninety-six percent (96%) to approximately 15,000.

The Pomo people occupied lands in the northern part of California that spanned an area from the Pacific coast at the northern San Francisco Bay area to the Lake District in northern California. Their ancestors were devastated by the Gold Rush and hostile State and Federal policies towards Indians in the 19th Century. By the early 1900's most Indians and Indian tribes from the area that managed to survive were poverty stricken, landless and homeless. Because of this unconscionable state of affairs in California, Congress enacted legislation to help purchase reservation lands for many of these Indians and tribes. The Lytton Rancheria is one such tribe which received reservation lands in Sonoma County from these purchases.

The Tribe resided and flourished on the land sustaining itself by farming and ranching until it once again fell prey to bad "Indian policy" on the part of the government. Unfortunately, the hostile attitude toward California tribes soon returned, and with passage of the Rancheria Act of 1958, Lytton Rancheria, along with dozens of other California tribes, had its relationship with the Federal government terminated. This resulted in the Tribe losing all of its Rancheria lands as well, and it once again became a destitute, landless Indian tribe with no means of supporting itself. As has now been widely accepted, the Rancheria Act was another failed attempt to cause Indian tribes to disband. Despite the hardships

caused to it by continuously losing its homelands, the Lytton Tribe remained cohesive and strong, not giving up its claim that it had been wrongfully terminated.

In 1987, the Tribe joined with three other tribes in a lawsuit against the United States challenging the termination of their Rancherias. In 1991 a federal court concluded in “Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria v. United States of America” No. C-86-3660 (N.D.Cal. March 22, 1991), that the termination of the Lytton Rancheria was indeed unlawful, and Lytton’s federally recognized tribal status was restored by court order. In part the Stipulated Judgment reads, “...that the distributees of the Lytton Rancheria are eligible for all rights and benefits extended to Indians under the Constitution and laws of the United States; and that the Lytton Indian Community and its members shall be eligible for all rights and benefits extended to other federally recognized Indian tribes and their members, ...”

Lytton’s status was restored, but its land base, now owned by non-Indians, was not returned to them and Lytton remained a landless and impoverished tribe. The Tribe had no home to return to. The Stipulated Judgment that ended the case was agreed to by federal and County authorities and specifically promised the Tribe a new homeland in Sonoma County on lands to be held in federal trust. Twenty-four years later, the Tribe is still waiting for that promise to be fulfilled. Almost three generations of our people have not known what it is like to live in a community on tribal lands.

In 2000 Congress passed Section 819 of P.L. 106-568 which directed the Secretary of Interior to take certain land into trust for gaming purposes for the Tribe in San Pablo, California. This action was taken after due consideration and with strong local support. Lytton has established a small, successful Class II gaming operation in that location which is limited by law to electronic bingo games and poker. The Tribe collects revenues from this facility to pay for tribal needs including education and health care, as well as purchasing property for a homeland and area to diversify the Tribe’s economic development. The Tribe’s 9.5 acre San Pablo trust parcel is only large enough for the gaming facility and cannot meet the Tribe’s need for tribal homeland.

Need for Trust Land

Indian tribes have long been held to be distinct political communities. This inherent sovereignty of tribal governments is acknowledged in the United States Constitution, as well as treaties, legislation and judicial and administrative decisions. Land is essential for tribes in order for them to function as governments. Tribal trust lands are especially important to this advancement. Tribes need trust lands so that they can provide governmental services for their members, such as housing, health care, education, economic development, and in order to protect historic, cultural and religious ties to the land.

The Indian Reorganization Act (“IRA”) recognized the need for tribes to have and govern their own lands to provide for the advancement and self-support of their people. The legislative history of the IRA clearly shows the intent of Congress to address and ameliorate the extensive loss of land tribes had suffered. Specifically, the IRA made a change in federal Indian policy which would “establish machinery

whereby Indian tribes would be able to assume a greater degree of self-government, both politically and economically.” This is done through growing their land bases.

Every Indian tribe needs to have a homeland with clearly delineated authority to provide services to its members and jurisdiction over its lands to provide the necessary infrastructure and land use planning for future generations. With the exception of the small parcel Congress provided it for gaming in San Pablo, which is not large enough for a tribal homeland, Lytton Rancheria has been left essentially landless since it was terminated in 1961. For more than fifty years the Tribe has not been able to provide its members a homeland on which to have housing, community and governmental facilities, and to follow their religious practices without interference from outsiders.

Lytton Rancheria has used revenues from the San Pablo Casino to purchase lands, from willing sellers and at fair market value, near its former Rancheria in the Alexander Valley of Sonoma County. Lytton Rancheria has concentrated the purchase of property near the Town of Windsor and currently holds these lands in fee status. The attached map entitled, “Lytton Fee Owned Property to be Taken into Trust – May1, 2015” shows the property proposed for trust status under H.R. 2538 which includes 511 acres. There will be no gaming on any of the lands covered in H.R. 2538. The bill specifically prohibits gaming on any of the lands.

Of the acreage proposed for trust status, the Tribe proposes to use approximately 124.12 acres for housing and other governmental and community facilities. This will allow it to have a homeland for its members after fifty years in exile. A portion of the land proposed to be taking into trust is currently being used for economic development purposes such as viticulture.

The Tribe has purchased a number of vineyards and is operating them in an environmentally sensitive manner. Vineyards that were in various stages of disrepair prior to the Tribe’s purchase are now being put back into clean, healthy working order. Small tributaries of the Russian River that have long been clogged and unusable by fish are being cleaned out and made ready for use again. Additionally, the Tribe has installed wind machines to use during frost warnings to keep the grapes from freezing, rather than using overhead spray from the Russian River like many ranches in the area. This innovative measure will save water from being taken from the Russian River at a vital time of the river’s flow. The Tribe’s investment in the ongoing viticulture operations has reinvigorated many previously deteriorating vineyards, and its grapes are being used to produce high-quality wines. Lytton operates its vineyards on a fish-friendly and sustainable basis, and is working towards sustainability certification pursuant to the practices of the Sonoma County Winegrape Association and the California Sustainable Winegrowing Alliance.

Lytton Rancheria is a Good Neighbor

Lytton Rancheria has prided itself in being a good neighbor to the communities surrounding its lands. For example, in San Pablo, the Tribe provides more than 50% of the City’s operating budget and donates to many local charities. For instance, the Tribe sponsors a yearly golf tournament to benefit the Brookside Foundation thus providing \$100,000 a year for healthcare for an impoverished community. The Tribe has also donated \$50,000 to the Boys and Girls Clubs of San Pablo. In addition, the Tribe

contributes \$25,000 a year to the Friendship House in San Francisco to help aid in drug and alcohol rehabilitation in the Bay Area.

The Tribe is a premier supporter of the Wells Fargo Center for the Arts in Sonoma County, donating \$500,000 a year for children's programs and musical instruments. Lytton has recently agreed to give \$250,000 a year for five years to the Charles Shultz Children's Charities, which includes three different children's charities in Sonoma County. These are just a few examples of Lytton Rancheria using its resources to assist its local communities.

On the federal level, Lytton Rancheria does not accept any federal funding it is eligible for as a tribe except for Indian Health Service (IHS) funding, which it immediately turns over to the Sonoma Indian Health Clinic. This Clinic provides healthcare for all Indians, regardless of tribal affiliation, residing in Sonoma County. On top of its IHS funding, the Tribe also donates an additional \$600,000 per year to the Sonoma Indian Health Clinic to use for expenses.

Memoranda of Agreement

Realizing that having land in trust in Sonoma County would change some of the current uses of the land, the Tribe has spent years meeting with, negotiating and forming agreements with the County of Sonoma, the local school district and the local fire department.

Windsor Fire Protection District

Lytton Rancheria has entered into a Memorandum of Agreement with the Windsor Fire Protection District to provide emergency services to tribal members located in the proposed tribal housing area, which is within the District's jurisdiction. Under the Agreement, the Windsor Fire Protection District will provide the initial response to all emergency incidents for fire, medical, rescue or other reported emergency reason.

In return for these services, the Tribe has agreed to make payments to the fire district including: \$50,000 a year for equipment purchases and \$80,000 a year for one full-time firefighter. In addition, the Tribe has agreed to pay to the District, prior to the start of construction: \$750 per each single family home, \$525 per each multi-family unit, and \$340 per every 1,000 square feet of space for a community center and tribal retreat center. Once property is in trust status the Tribe has also agreed to pay the District on an escalating basis yearly. The beginning payment would be \$25,000/year and increase up to \$50,000/year for the term of the agreement. Further, the Tribe has agreed to provide additional funding if necessary in the case of an emergency such as terrorism, earthquake or other act of God.

The Tribe will comply with California Fire Code and Fire Safety Standards Ordinance during construction of all housing and tribal buildings. The Tribe will also be responsible for providing adequate water and pressure for firefighting.

Windsor Unified School District

Lytton Rancheria has entered into a Memorandum of Agreement with the Windsor Unified School District to prepare for and mitigate an increase in school aged children who would move into the proposed tribal housing. The Tribe has agreed to pay, based on the Environmental Assessment for the

housing project, the amount of \$1 million dollars. This amount is similar to the amount that would be owed to the School District if the land were developed by a non-tribal entity.

Town of Windsor

The Tribe is in talks with the Town of Windsor for water and sewer support for the tribal housing area since the development would be just outside the current Town water and sewer boundaries. This decision is likely to be made through public referendum and the Tribe is prepared to pay substantially to mitigate any costs required by such services as well as to assist the Town with other priorities it might have for its citizens.

County of Sonoma

After years of discussion and negotiation, Lytton Rancheria and the Sonoma County Board of Supervisors have agreed to and signed a binding Memorandum of Agreement (MOA). I am pleased to report that both the Lytton Tribal Council and the Sonoma County Board of Supervisors voted unanimously to support the agreement and the legislation to take lands into trust for the Tribe.

The detailed Agreement with the County initially spans a term of a generation and covers almost every aspect of land management once the tribally-owned land is taken into trust status. The MOA is too long to detail in this testimony, but I will cover some of the significant portions.

- An Environmental Assessment was prepared and submitted to the Bureau of Indian Affairs and circulated regarding the residential development area for tribal housing. The Bureau of Indian Affairs issued a Finding of No Significant Impact (FONSI) on June 5, 2012. The MOA contains agreements for the mitigation of potential impacts from this, or any future, land being taken into trust status for Lytton Rancheria.
- In the residential development area, the MOA contains agreements on how many units will be built, the size of the units and who can reside there. Some oak trees will be cut in the residential area, however the Tribe has marked and will protect the larger heritage trees, and is providing the County with funding to replace, on a 1 to 1 ratio, the smaller trees that are cut down.
- The Tribe has agreed to strict environmental protection and mitigation efforts for the residential project, including the community and governmental facilities. The Tribe has also agreed that for a potential future lodging facility and winery, it will prepare an Environmental Impact Statement in compliance with NEPA and negotiate with the County on mitigating impacts. The Tribe waived its sovereign immunity in the MOA and agreed to binding arbitration if there is disagreement on mitigation.
- Lytton Rancheria has agreed to provide compensation for substantial mitigation and other costs to the County. These include a onetime payment of \$6 million dollars for mitigation of, among other things, County roads, native oaks, woodlands; and a onetime payment of \$100,000 for costs incurred by the County to prepare and implement the MOA.
- The Tribe has agreed to a continuous payment to the County based on the valuation of the land as determined by the County Assessor's Office. In addition the Tribe has agreed to pay to the County 9% of all rents collected by the Tribe on hotel rooms and vacation rentals.

Governor of California

On May 27, 2015, Governor Jerry Brown, Jr. wrote a letter to Congressman Jared Huffman expressing his support for the Lytton Rancheria Homeland Act of 2015. In his letter he stated in part, "Lytton Rancheria and Sonoma County have concluded an Agreement that reflects a respectful relationship. The Act and Agreement provide the framework for mutually beneficial cooperative efforts that protect the Tribe's sovereignty as well as the vital interests of Sonoma County residents."

Closing

In closing Mr. Chairman, I want to thank you again for holding this hearing addressing the number one priority of my tribe – the re-establishment of a homeland on which the Lytton people can once again live communally now and for future generations. We have been fighting back from losing our lands (the last time) for more than 50 years, and I do not want another of our tribal elders to pass away without knowing there once again is tribal land to house our people.

This Committee has been there for us in our struggle. Please know that fact is not lost on us. All people need a homeland and we are no different. We are not asking for federal or state lands. We have been able to purchase our own land and we have done the hard work of getting agreements with our local non-Indian communities. All we need now is for the federal government to finish what was promised to us when our status was restored. As an Indian tribe, we need our land to be held by the federal government in trust for the Lytton Rancheria.

Passage of HR 2538, the Lytton Rancheria Homeland Act of 2015 will restore my people to where we were before termination. I hope you will continue to support the Lytton Rancheria and move HR 2538 out of committee and to the House Floor in the near future.

Thank you.

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

