

H.R. 597 AND H.R. 1491

HEARING
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION

APRIL 25, 2018

Printed for the use of the Committee on Indian Affairs



U.S. GOVERNMENT PUBLISHING OFFICE

COMMITTEE ON INDIAN AFFAIRS

JOHN HOEVEN, North Dakota, *Chairman*

TOM UDALL, New Mexico, *Vice Chairman*

JOHN BARRASSO, Wyoming

JOHN McCAIN, Arizona

LISA MURKOWSKI, Alaska

JAMES LANKFORD, Oklahoma

STEVE DAINES, Montana

MIKE CRAPO, Idaho

JERRY MORAN, Kansas

MARIA CANTWELL, Washington

JON TESTER, Montana,

BRIAN SCHATZ, Hawaii

HEIDI HEITKAMP, North Dakota

CATHERINE CORTEZ MASTO, Nevada

TINA SMITH, Minnesota

T. MICHAEL ANDREWS, *Majority Staff Director and Chief Counsel*

JENNIFER ROMERO, *Minority Staff Director and Chief Counsel*

CONTENTS

| | Page |
|--------------------------------------|------|
| Hearing held on April 25, 2018 | 1 |
| Statement of Senator Hoeven | 1 |
| Statement of Senator Udall | 2 |

WITNESSES

| | |
|---|----|
| Healy, Hon. Mike, Councilmember, City of Petaluma, California | 21 |
| Prepared statement | 23 |
| Kahn, Hon. Kenneth, Chairman, Santa Ynez Band of Chumash Indians | 6 |
| Prepared statement | 8 |
| Krauch, William “Bill”, Chair, Santa Ynez Valley Coalition | 26 |
| Prepared statement | 28 |
| LaCounte, Darryl, Acting Deputy Bureau Director, Office of Trust Services, Bureau of Indian Affairs, U.S. Department of the Interior | 3 |
| Prepared statement | 4 |
| Mejia, Hon. Marjorie, Chairperson, Lytton Rancheria of California | 11 |
| Prepared statement | 13 |

APPENDIX

| | |
|--|----|
| Gore, Hon. James, Chairperson, Sonoma County Board of Supervisors, pre- pared statement | 39 |
| Letters Submitted for the record by: | |
| Hon. Salud O. Carbajal, U.S. Representative of California | 42 |
| Hon. Doug LaMalfa, U.S. Representative of California | 43 |
| Das Williams, Chair, Santa Barbara County Board of Supervisors | 41 |
| Santa Ynez Band of Chumash Indians, supplemental information submitted for the record | 43 |

H.R. 597 AND H.R. 1491

WEDNESDAY, APRIL 25, 2018

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m. in room 628, Dirksen Senate Office Building, Hon. John Hoeven, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN HOEVEN, U.S. SENATOR FROM NORTH DAKOTA

The CHAIRMAN. Good afternoon. We will call this legislative hearing to order.

Today the Committee will examine two bills: H.R. 597, a bill to take lands in Sonoma County, California, into trust as part of the reservation of the Lytton Rancheria of California, and for other purposes; and H.R. 1491, a bill to reaffirm the action of the Secretary of Interior to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians, and for other purposes.

On January 20, 2017, Representative Denham introduced H.R. 597, the Lytton Rancheria Homelands Act of 2017. The bill passed the House of Representatives on July 11, 2017, and was received by the Senate on July 12, 2017. H.R. 597 would take 511 acres of land owned by the Lytton Band of Pomo Indians of California into trust for the benefit of the tribe.

The Lytton Rancheria has spent years negotiating with the local county of Sonoma to form and approve a memorandum of agreement that would mitigate any potential off-reservation impact from land being moved into trust. The land, once in trust, would assist the tribe in further developing their economy and provide for additional housing.

On March 10, 2017, Representative Lamalfa introduced H.R. 1491, the Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017. The bill passed the House of Representatives on November 28, 2017, and was received by the Senate on November 29, 2017. H.R. 1491 would reaffirm the Secretary of Interior's decision to place 1,427.28 acres of California land in trust for the Santa Ynez Band of Chumash Indians, resolving years of litigation regarding the Secretary's decision.

After negotiating over the county's concerns, the tribal and the local county of Santa Barbara have also entered into an effective memorandum of agreement. This MOA provides for the mitigation of potential impacts once the land is in trust.

On January 18, 2018, Senators Feinstein and Harris requested this Committee hold a legislative hearing on these two California tribal bills. I look forward to hearing the feedback from our witnesses on both these pieces of legislation.

With that, I will turn to Vice Chairman Udall for his comments.

**STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO**

Senator UDALL. Thank you, Chairman Hoeven, for calling today's legislative hearing.

As many of you know, Congress' enactment of the Indian Reorganization Act in 1934 marked a significant turning point in the Federal-tribal relationship. Through this Act, Congress sought to empower, rather than undermine, tribal governments. The authority of the Secretary to take land into trust is the crowning achievement of the IRA.

This authority represented a clear rejection of the allotment era, when Indian tribes lost tens of millions, by some estimates hundreds of millions, of acres of their land in less than 50 years. The loss of a tribal land base decimated tribal governments and destroyed tribal economies.

Since passage of the IRA, tribes have successfully restored millions of acres of homelands. That includes more than 500,000 in the past eight years. I hope we stay the course. Indian Country deserves no less. That is why I remain concerned about the Department's proposal to revise its land into trust regulations, potentially placing additional hurdles in the way of tribes.

The importance of tribal trust acquisitions cannot be overstated. After all, the authority to govern is rooted in the authority to exercise jurisdiction. The authority to provide safe refuge to tribal citizens, the ability to house tribal members and exercise jurisdiction, ensuring their well-being.

I appreciate, as the opposition here today demonstrates, that not all trust acquisitions will be without controversy. But this legislation before us demonstrates what local governments and tribes can achieve through mutual respect and cooperation. I would like to thank the witnesses for coming here today. It is a long flight from California. Again, thank you, Mr. Chairman, for calling this hearing.

The CHAIRMAN. Thank you, Vice Chairman Udall.

With that, our witnesses today are Mr. Darryl LaCounte, Acting Deputy Bureau Director, Office of Trust Services, Bureau of Indian Affairs, U.S. Department of the Interior; the Honorable Kenneth Kahn, Chairman, Santa Ynez Band of Chumash Indians, Santa Ynez, California; the Honorable Marjie Mejia, Chairperson, Lytton Rancheria of California, Santa Rosa, California; the Honorable Mike Healy, Councilmember, City of Petaluma, Petaluma, California; Mr. William "Bill" Krauch, Chair, Santa Ynez Valley Coalition, Los Olivos, California.

I want to remind the witnesses that your full written testimony will be made a part of the official hearing record. Please keep your statements to five minutes so we have time for questions. With that, we will begin with Mr. LaCounte.

**STATEMENT OF DARRYL LACOUNTE, ACTING DEPUTY
BUREAU DIRECTOR, OFFICE OF TRUST SERVICES, BUREAU
OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR**

Mr. LACOUNTE. Good afternoon, Chairman Hoeven and Vice Chairman Udall.

My name is Darryl LaCounte. I am the Acting Deputy Bureau Director for Trust Services for the Bureau of Indian Affairs in the Department of Interior. I am happy to present the department's views on H.R. 597, the Lytton Rancheria Homelands Act of 2017, and H.R. 1491, the Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017.

Let me begin with this. The department supports tribal self-determination, which at times include tribes electing to voluntarily proscribe activities that may legally be conducted on their lands. Therefore, the department supports the congressional efforts being made in H.R. 597, the Lytton Rancheria Homelands Act.

The bill will assure a homeland for the Lytton Rancheria of California where tribal housing as well as governmental community facilities are needed and can be constructed. In addition, the lands will also provide economic opportunities, including the continued use of a portion of the lands for viticulture.

The Lytton Rancheria Homelands Act of 2017 addresses the long history of Federal Indian relations in California and provides for a viable homeland for members of the tribe. The tribe's original homeland was purchased in 1926, pursuant to Congressional authority.

On August 1, 1961, the tribe was terminated in accordance with the Rancheria Act of 1958. As a result of termination, the tribe lost their original homelands that were purchased in 1926. In 1987, the tribe joined other tribes in a lawsuit against the United States, challenging their termination. Based on an agreement between parties, in the case of *Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria v. United States*, the tribe was restored to federally-recognized status.

The lands identified in H.R. 597 will ensure that the Lytton Rancheria has permanent protected homeland as it enjoyed prior to termination. The ability for tribes to acquire land in trust and the certainty that such lands remain in trust is an essential tool for fostering tribal self-determination. Administering trust lands is an important responsibility that the United States undertakes on behalf of Indian tribes. The Congress, through its plenary authority over Indian affairs, can direct the department to acquire and administer trust lands as it does in H.R. 597.

Also, we understand the Department of Justice may have technical comments on H.R. 597. Therefore, we support the Congressional goals embodied in H.R. 597, the Lytton Rancheria Homelands Act.

And now for H.R. 1491, the Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017. This legislation would reaffirm the action of the Secretary of the Interior to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians. The department supports the tribe's efforts to voluntarily proscribe the activities that may legally be conducted on its lands through H.R. 1491.

H.R. 1491 would reaffirm the decision dated January 19, 2017, that the Principal Deputy Assistant Secretary of Indian Affairs Lawrence S. Roberts take approximately 1,427 acres of land in Santa Barbara County, California, into trust for the benefit of the tribe. On January 20th, 2017, the Pacific Area Regional Director accepted the land into trust. Since that time, the tribe has worked with Santa Barbara County on a memorandum of agreement between the two parties regarding lands into trust.

On October 31, 2017, the Board of Supervisors for the county approved the MOA and the department approved the MOA pursuant to Section 2103 of the revised statute, 25 U.S.C. Section 81. The tribe has further agreed that gaming will not be conducted on the identified lands taken into trust for the tribe. When a trust acquisition is finalized and the title transferred in the name of the United States, tribes in the United States should be able to depend on the status of the land and the scope of the authority over such lands taken into trust. H.R. 1491, with amendments, would provide such certainty regarding the ownership status of this land.

In conclusion, administering trust lands is an important responsibility the United States undertakes on behalf of Indian tribes and the Secretary's authority to acquire lands in trust for the tribes and a certainty concerning the status of and jurisdiction over Indian lands after such acquisitions, are at the core of the Federal trust responsibility.

This concludes my statement on both H.R. 597 and H.R. 1491. I would be happy to answer questions the Committee may have.

[The prepared statement of Mr. LaCounte follows:]

PREPARED STATEMENT OF DARRYL LACOUNTÉ, ACTING DEPUTY BUREAU DIRECTOR,
OFFICE OF TRUST SERVICES, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF
THE INTERIOR

H.R. 597

Chairman Hoenes, Vice Chairman Udall, and members of the Committee, my name is Darryl LaCounte and I am the Acting Deputy Bureau Director-Trust Services at the Department of the Interior. Thank you for the opportunity to present the Department's views on H.R. 597, the Lytton Rancheria Homelands Act of 2017.

The Department supports tribal self-determination, which at times includes tribes electing to voluntarily proscribe activities that may legally be conducted on their lands. Therefore, the Department supports the congressional efforts being made in H.R. 597. The bill will assure a homeland for the Lytton Rancheria of California (Tribe) where tribal housing, as well as governmental and community facilities, is needed and can be constructed. In addition, the lands will also provide economic opportunities, including the continued use of a portion of the lands for viticulture.

Background

The Lytton Rancheria Homelands Act of 2017 addresses the long history of Federal-Indian relations in California and provides for a viable homeland for the members of the Tribe. The Tribe's original homeland was purchased in 1926 pursuant to congressional authority designed to remedy tragedy that befell the Indians of California. On August 1, 1961, the Tribe was terminated in accordance with the Rancheria Act of 1958. As a result of termination the Tribe lost their original homelands that were purchased in 1926.

In 1987, the Tribe joined other tribes in a lawsuit against the United States challenging their termination. Based on an agreement between the parties, in the case of *Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria v. United States*, the Tribe was restored to federally recognized status. The Stipulated Judgment, however, contains provisions that prohibit the Tribe from exercising its federal rights on its original homelands. Through agreements in the Stipulated Judgment,

ment, the Tribe must depend on lands outside of their original homelands to support their government. The lands identified in H.R. 597 will ensure that the Lytton Rancheria has a permanent protected homeland as it enjoyed prior to termination. The ability for Tribes to acquire land in trust and the certainty that such lands remain in trust is an essential tool for fostering tribal self-determination.

H.R. 597

H.R. 597 will place approximately 511 acres of land into trust for the Tribe. Section 4 of H.R. 597 references a map titled “Lytton Fee Owned Property to be Taken into Trust” dated May 1, 2015, that identifies lands to be placed into trust for the Tribe pursuant to the bill. Under H.R. 597, once the land is in trust for the Tribe, valid existing rights, contracts, and management agreements related to easements and rights-of-way will remain. H.R. 597 also includes a restriction that the Tribe may not conduct any gaming activities on any land placed into trust pursuant to this Act and places a time prohibition on gaming on any future lands placed in trust in Sonoma County for the Tribe until March 15, 2037, an approximately 19-year prohibition.

H.R. 597 also references a Memorandum of Agreement between Sonoma County and the Tribe. The MOA affects not only the trust acquisition covered in the legislation but also future acquisitions and subjects the Tribe to the land use/zoning authority of the County for most of the property identified in the legislation for the term of the MOA, 22 years, and imposes negotiated restrictions on the Tribe’s residential development. H.R. 597 also includes a permanent gaming prohibition on those lands located north of California State Highway Route 12 as it crosses through Sonoma County at Highway 101, and extending to the furthest extent of Sonoma County.

Administering trust lands is an important responsibility that the United States undertakes on behalf of Indian tribes. The Congress, through its plenary authority over Indian Affairs, can direct the Department to acquire and administer trust lands as it does in H.R. 597. The Department is also supportive of counties and tribes negotiating agreements to resolve their differences.

We understand that the Department of Justice may have technical comments on the bill.

Conclusion

In conclusion, The Departments supports tribal self-determination, which at times includes tribes electing to voluntarily proscribe activities that may legally be conducted on their lands. Therefore, we support the congressional goals embodied in H.R. 597, the Lytton Rancheria Homelands Act. I would be glad to answer any questions the Committee may have.

H.R. 1491

Chairman Hoeven, Vice Chairman Udall, and Members of the Committee, my name is Darryl LaCounte and I am the Acting Deputy Bureau Director-Trust Services at the Department of the Interior (Department). Thank you for the opportunity to present testimony on H.R. 1491, the Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017. This bill would reaffirm the action of the Secretary of the Interior to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians (Tribe). The Department supports the Tribe’s efforts to voluntarily proscribe the activities that may legally be conducted on its lands through H.R. 1491.

Background

By decision dated January 19, 2017, the Principal Deputy Assistant Secretary—Indian Affairs, Lawrence S. Roberts affirmed the December 24, 2014, decision of the Bureau of Indian Affairs (BIA) Pacific Regional Director to take approximately 1,427 acres of land in Santa Barbara County, California, into trust for the benefit of the Tribe. On January 20, 2017, the Regional Director accepted the land into trust.

Since that time the Santa Ynez Band of Chumash has worked with Santa Barbara County on a Memorandum of Agreement between the two parties regarding the lands taken into trust. On October 31, 2017, the Board of Supervisors for the County approved the MOA and the Department approved the MOA pursuant to section 2103 of the Revised Statutes (25 U.S.C. 81). The Tribe has further agreed that gaming will not be conducted on the identified lands taken into trust for the Tribe.

The Department agrees that certainty of title is important, as it provides tribes, the United States, and state and local governments with the clarity needed to carry out each sovereign’s respective obligations. Such certainty is pivotal to the tribe’s

ability to provide essential government services to its citizens, such as housing, education, health care, and promote tribal economies.

Once the trust acquisition is finalized and title transferred in the name of the United States, tribes and the United States should be able to depend on the status of the land and the scope of the authority over the land. H.R. 1491, with amendments, would provide such certainty regarding the ownership status of this land.

H.R. 1491

Section 3 of H.R. 1491 provides that the action taken by the Department on January 20, 2017, to place approximately 1,427 acres of land located in Santa Barbara County, California, into trust for the benefit of the Santa Ynez Band of Chumash Indians, is hereby ratified and confirmed as if that action had been taken under a Federal law specifically authorizing or directing that action.

H.R. 1491 also provides that nothing in the legislation shall enlarge, impair, or otherwise affect any right or claim of the Tribe to any land or interest in land in existence before the date of the enactment of H.R. 1491; affect any water right of the Tribe in existence before the date of the enactment; or terminate or limit any access in any way to any right-of-way or right-of-use issued, granted, or permitted before the date of the enactment of H.R. 1491. The legislation would also restrict lands already taken into trust to preclude the Tribe from conducting gaming activities on the land, as a matter of claimed inherent authority or under any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq) and regulations promulgated by the Secretary or the National Indian Gaming Commission under that Act.

Conclusion

Administering trust lands is an important responsibility that the United States undertakes on behalf of Indian tribes. The Secretary's authority to acquire lands in trust for tribes and the certainty concerning the status of and jurisdiction over Indian lands after such acquisitions are at the core of federal trust responsibility. This concludes my statement and I would be happy to answer questions.

The CHAIRMAN. Thank you. Mr. Kahn?

STATEMENT OF HON. KENNETH KAHN, CHAIRMAN, SANTA YNEZ BAND OF CHUMASH INDIANS

Mr. KAHN. Mr. Chairman, Mr. Vice Chairman, thank you for the opportunity to appear before you today. I am proud to be here representing the members of the Santa Ynez Band of Chumash Indians in support of H.R. 1491, the Santa Ynez Band of Chumash Mission Indians Land Affirmation Act of 2017.

This legislation ratifies the actions taken by the Department of the Interior to place the land in trust for our tribe. If enacted, it will allow us to expedite the construction of 143 homes for tribal members and descendants, and will provide us with much-needed land to protect and grow our cultural heritage.

The Santa Ynez Band of Chumash Indians is the only federally-recognized tribe of Chumash heritage. Our Chumash people inhabited the California coast from Monterrey to the north to Malibu in the south. The Chumash were the first California Indians encountered by the Spanish explorer Juan Cabrillo when he landed in what is now known as the city of Ventura, California, in 1542.

Like many California Indians, we were forced into Spanish missions for generations, destroying much of our culture, confiscating our lands and decimating our populations. Following the mission era in 1906, the United States granted our tribe 99 acres in Santa Ynez, California. We subsequently voted to organize under the Indian Reorganization Act in 1934.

While most of the reservation lacked running water and electricity, the tribe secured several HUD grants in the 1960s and 1970s to build housing for our members. Today, those renovated

50-year-old HUD houses remain the primary housing on our reservation. As a result, only 17 percent of our tribal members and descendants live on tribal land.

After Congress passed the Indian Gaming Regulatory Act, our tribe elected to take advantage of the opportunity. We entered into a compact with the State of California and have run a successful gaming operation for almost 20 years. Like many tribes, gaming was a catalyst. It provided us the resources to rebuild our government and rebuild our culture. Like any government, one of our greatest needs is housing. As I mentioned, only a fraction of our tribal members and descendants live on tribal land. And with no space left to construct new houses, we knew that we needed to acquire more land.

We purchased roughly 1,400 acres known as Camp 4, just over a mile from our existing reservation that was part of our aboriginal territory. With this purchase, we committed to our members that we would ensure each tribal family have a tribal land assignment to build a home on this new tribal land, once Camp 4 was taken into Federal trust. Before even attempting to place the land into trust, we approached our community. We know there are often misunderstandings about tribal lands, and we wanted to put our plans out in the open. We even went so far as to propose a cooperative mitigation agreement with the county before we attempted to pursue the legislative or administrative avenues for placing the land in trust.

Sadly, we were met with resistance. Some in the community questioned our motives and made false accusations about our plans for the land. To be clear, we do not want to build a casino on the land and we do not want to export the water.

After years of sharp criticism, it was clear our word was not enough. So we redoubled our efforts to reach an agreement with those who would work with us. It took seven years, but I am proud to say that we got there.

On October 31, 2017, after 22 public hearings and hundreds, if not thousands, of public comments, the tribe and the county entered into a binding mitigation agreement for development on Camp 4 lands. The tribe agreed to build 143 housing units, a small tribal meeting hall, and an administrative building, and protecting the vast majority of the property as agricultural land or environmental open space. We agreed to fairly compensate the county for services it provided in the area.

I want to be clear: we entered into this agreement because it was the right thing to do, not because we were forced to do so.

In the midst of our negotiation with Santa Barbara County, the Department of the Interior placed our lands in trust. Some believed that there was no need for an agreement. The tribal leadership was committed. We wanted to proceed, hoping we could improve relations in the valley and establish a precedent for future collaboration with the county. Our decision to continue working with the county, even after our land was placed in trust, is a big reason why we have such strong community support for the bill.

On that note, Mr. Chairman, I would ask that the statements from Santa Barbara County, our local Congressman, Salud

Carbajal, and the bill's sponsor, Congressman Doug Lamalfa, be added to the hearing record.

The CHAIRMAN. Without objection.

Mr. KAHN. I would also request that the Committee accept the statements of 37 individuals who spoke in support of the tribe and its agreement with the county at a public hearing on October 31, 2017. These statements include those of former Congressman Lois Capps and former county supervisors where the tribe is located, Dorene Farr, and Gail Marshall.

In conclusion, I want to thank the Committee once again for the opportunity to be here today. The bill will expedite much-needed housing for tribal members and will set a precedent that good faith negotiations between tribes and local governments will be rewarded.

Thank you, Mr. Chairman, thank you, Mr. Vice Chairman. I look forward to answering any questions you may have.

[The prepared statement of Mr. Kahn follows:]

PREPARED STATEMENT OF HON. KENNETH KAHN, CHAIRMAN, SANTA YNEZ BAND OF CHUMASH INDIANS

Mr. Chairman, Mr. Vice Chairman, Members of the Committee, thank you for the opportunity to appear before you today. I am proud to be here representing the Members of the Santa Ynez Band of Chumash Indians in support of H.R. 1491, the Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017.

This legislation ratifies the actions taken by the Department of the Interior to place land in trust for our Tribe. If enacted, it will allow us to expedite the construction of 143 homes for tribal members and descendants, and will provide us with a much needed land base to protect and grow our cultural heritage.

I want to begin by providing a brief history of how we got here. The context is important, and should give you a good lens with which to view this legislation.

The Santa Ynez Band of Chumash Indians is the only federally recognized tribe of Chumash heritage. Our Chumash people historically inhabited the California coast from Paso Robles in the North, to Malibu in the South. The Chumash were the first California Indians encountered by the Spanish explorer Juan Cabrillo when he landed in what is now the City of Ventura, California in 1542.

Like many California Indians, we were forced into Spanish missions for generations, destroying much of our culture, confiscating our lands, and decimating our population.

Following the Mission era, in 1906, the United States provided our tribe 99 acres in a swampy riverbed in Santa Ynez, California. We subsequently voted to organize under the Indian Reorganization Act in 1934.

Even while most of the reservation lacked running water and electricity, the Tribe secured several HUD grants in the 1960s and 1970s to build housing for our members. Today, those renovated 50-year-old HUD houses remain the only housing on our reservation. As a result, only 17 percent of our tribal members and descendants live on tribal land.

After Congress passed the Indian Gaming Regulatory Act, our Tribe elected to take advantage of the opportunity. We entered into a compact with the State of California, and have run a successful gaming operation for almost 20 years.

Like many tribes, gaming was a catalyst. It provided us the resources to rebuild our government and our culture.

By 2010, the greatest need in our community was tribal housing. As I mentioned, only a fraction of tribal members and descendants live on tribal land, and with no space left to construct new houses, we knew that we needed to acquire more land.

We were fortunate to find a landowner just down the road from our existing reservation that was willing to sell us land that was a part of our original land grant from the Catholic Church, clearly within our aboriginal territory. When we purchased the roughly 1,400 acres known as Camp 4, we committed to our members that each family would have a land assignment on tribal land once Camp 4 was taken into trust.

Before even attempting to place the land in trust, we approached our community. We know there are often misunderstandings about tribal lands, and we wanted to

put our plans out in the open. We even went so far as to propose a cooperative mitigation agreement with the County before beginning the legislative or administrative avenues for placing the land in trust.

Sadly we were met with resistance. Some in the community questioned our motives and made false accusations about our plans for the land. It was frustrating. No, we don't want to build a new casino just a mile away from our existing casino. No, we didn't want the land in trust so we could export the water.

To be candid, some of what was said was extremely disappointing.

We heard wild, baseless allegations such as the Tribe was not a political jurisdiction eligible for government-to-government negotiations. We were told that it is inadvisable for sovereign tribal trust lands to exist in America. Some even asserted that our Chairman was a Mexican, not a Native American.

After more than a year of sharp, baseless criticisms, it was clear that our good faith effort to resolve local issues prior to beginning the Fee to Trust process had failed. So, in July 2013 we filed the Administrative fee-to-trust application for Camp 4.

Not surprisingly, our opponents immediately filed suit opposing the action. Knowing this group would use the administrative and legal appeals process to delay our application for as long as possible, we also sought to place the land in trust via an act of Congress.

Tribal leaders also redoubled our efforts to reach an agreement with those who would work with us, starting with the County Sheriff Department. The Tribe had developed a wonderful relationship with our Sheriff through years of joint programs and jurisdictional cooperation, and we believed we could negotiate with them in good faith.

Our faith was well-placed. The Chumash Tribe and Sheriff Bill Brown entered into a new cooperative agreement that improved public safety in the region by having the Tribe provide funding for a new police cruiser and four deputies (that has now grown to six deputies) at a cost of more than \$1 million each year. These deputies didn't just serve the Reservation, they responded to emergencies all across Santa Barbara County. Next, we moved on to the Fire Department, and secured an agreement in which the Tribe contributes more than \$1 million each year to improve County-wide emergency services for our community.

Those two agreements came as we began to see movement on both the administrative and legislative fee-to-trust routes.

In late 2014, the Bureau of Indian Affairs Sacramento Regional Office issued a Notice of Decision regarding the Department's intent to accept the Camp 4 land in trust. The Department had determined that the tribe's application met the criteria for federal acquisition, and in accordance with federal regulations, proposed accepting the land for the benefit of the Tribe.

However, once again, our neighbors chose litigation over cooperation. The Department of the Interior was sued more than half a dozen times over their decision, including by the County of Santa Barbara.

Fortunately, in early June 2015 the House Resources Committee's Subcommittee on Indian Affairs held a hearing on an earlier version of this legislation. This marked a turning point.

Upon Congressional examination, the weakness of the opposition's position came to light. For House Resources Committee Members, who routinely deal with issues dealing with Native American Tribes, the issue was black and white. The Tribe proposed taking land in trust, proposed development that was consistent with the surrounding community, and attempted to mitigate impacts even though that step was not required by federal law. This should have been an open-and-shut case—and Committee Members said so in no uncertain terms.

That hearing was a real wake up call for the County of Santa Barbara. For too long, the County had allowed a vocal minority within the community to steer the official County position. When the details were examined by a neutral third party, the error in their ways became clear.

And to the County's credit, they responded positively. Promptly after we returned from the hearing in Washington, the County reached out and expressed an interest in re-examining their position. We happily agreed to come back to the negotiating table. Our leadership knew that neither the Tribe nor the county were going anywhere, so it was in both of our best interests to find ways to get along.

After some discussion, the County and Tribe initiated the Ad Hoc Subcommittee Regarding Santa Ynez Valley Band of Chumash Indians Matters on August 15, 2015. The group was made up of two Members of the Board of Supervisors and two members of the Chumash Business Committee. I have served on this committee since its inception, first in my capacity as Vice Chairman, and since April 2016, as Chairman of the Tribe.

Like any negotiation, there were fits and starts. Sometimes we hit fundamental disagreements, and talks slowed to a trickle. Sometimes there were bursts of progress when we made a breakthrough. Many were skeptical, but I am proud to say we got there. On October 31, 2017, after 22 public meetings and hundreds, if not thousands, of public comments, the Tribe and the County entered into a binding mitigation agreement for development on our Camp Four lands.

The agreement stipulates that the Tribe will build 143 housing units, and a small Tribal Meeting Hall/administrative building. Under the agreement the vast majority of the property will be protected as agricultural land or environmental open space. And we agreed to fairly compensate the County for the services it provides in the area.

Under the terms of the agreement, the County dismissed its lawsuit against the Department of the Interior. The County also agreed to support the Legislation being considered here today.

I would like to take a moment to recognize the County's representatives who are in the audience today—since we turned the corner, they have really been wonderful partners. In particular, I want to recognize the singular leadership of Supervisor Joan Hartmann, who represents our Supervisorial District, Chaired the Ad Hoc Subcommittee, and served as Chairwoman of the Board of Supervisors until this year. Supervisor Hartmann was a force to be reckoned with, and I want to thank her for her personal efforts and commitment to getting us to where we are today.

I will return to some of the specifics of our agreement in a moment, but I want to briefly underscore an important point: we entered into this agreement because it was the right thing to do—not because we were forced to do so.

In the midst of our negotiations with Santa Barbara County, the Department of the Interior placed our lands in trust. On January 19, 2018, Acting Assistant Secretary-Indian Affairs Larry Roberts completed our Fee-to-Trust process and dismissed the pending challenges against the action. Secretary Zinke subsequently upheld this action in the new Administration.

We had already won; there was no need for the agreement, according to many of my members.

But tribal leadership was committed. We hoped that by going through with negotiations, we could improve relations in the valley and set a road map for how we work with the County on future projects.

Looking back now, I believe that was the right decision. Our agreement demonstrated to many in the Community that good faith negotiations between the County and the Tribe are possible, and that they can be fruitful. I also believe that our decision to work with the County even after our land was placed in trust is a big reason why we have such strong support for the bill.

On that note, Mr. Chairman, I would ask that following the conclusion of my remarks, the Committee accept several key statements of support from Santa Barbara County, our local Congressman, Salud Carbajal, and the bill's sponsor, Representative Doug LaMalfa. I would also ask that the committee include comments in support of the agreement from Former Congresswoman Lois Capps, Former Supervisor Doreen Farr, and more than two dozen other local leaders, chambers of commerce, labor groups, environmental organizations, and other community members.

I will be the first to acknowledge that not everyone is happy with this agreement. As you will hear from Mr. Krauch, some of our neighbors are still unhappy, even after all of the concessions we made willingly.

They have every right to raise concerns, and I am glad that they did. Mr. Krauch and others brought up a number of tough issues, and because of the open, transparent public hearing process, we were forced to respond to their comments. More importantly, we made changes to the agreement based on their concerns. Don't take my word for it. Look back to our initial offer to the County nearly ten years ago; I think it is clear as day that we made substantial concessions to the community.

It is worth mentioning a few of the more substantive concerns that were raised, and how we addressed them in the agreement referred to in Section 2 of the legislation.

Gaming is often cited as a major concern with fee-to-trust applications across the country. Our application was not, is not, and will never be for gaming. It is about housing. That is why the only component of the agreement that lasts in perpetuity is the prohibition on gaming. The tribe does not feel that this was a major concession—our existing gaming facility is less than two miles down the road. It would make no sense to build a new casino on this land, so we were happy to take that off the table. As you will notice, this was done in Section 3(g) of the bill.

Concerns about land use were, without question, the most common issue raised prior to the formal negotiations with the County and throughout the public process. Sovereign tribal land is not subject to county zoning ordinances, and this really got

under the skin of some of the no-growth community members. But as members of the Santa Ynez Valley community, we share many of the goals of our neighbors. We don't want high density multi-family urban-style development. And we certainly don't want to spoil the bucolic scenery of the valley.

That's why the agreement with the County puts reasonable restrictions on what and where the Tribe can build. We voluntarily limit our construction projects to 143 homes, and a tribal hall/administrative building. The rest of the land will be open space, remain in agricultural production, or be actively managed to maximize environmental benefit for the region.

The size of the buildings we construct will be limited, as set forth in the Environmental Assessment that we submitted to the Department of the Interior. The agreement simply requires us to follow our original plans.

Moreover, in an effort to address concerns about preserving the rural character of the Valley, the Tribe agreed to develop the Camp 4 property in a manner that was less dense than the neighboring housing development. We propose 143 homes on our 1,427-acre property, while our neighbors in the Rancho Santa Ines Estates development have 137 homes across 1,058 acres.

A few of our more creative opponents have raised the concern that the Tribal Hall and Administrative building will be used to throw large parties. Nothing could be further from the truth. Events are limited, per the enforceable environmental assessment document. And, as with all tribal government facilities on our reservation, tribal law prohibits the consumption of alcohol. In reality, the 12,000 square foot space—which are coincidentally about the size of some of our neighbors' homes—will be used for offices, and to hold tribal council meetings, youth education events, and traditional/cultural events.

Another common concern we heard was that by placing the land in trust, the County loses out on tax revenue. This is true, and we set out to make it right.

We asked the County to quantify the cost of services provided; after a thorough review, they requested \$178,500 annually for the life of the agreement (until 2040). We felt this was fair, and happily agreed to the request. As such, in Section III, 9(d), on page six of our agreement, the Tribe agrees to provide the County with these payments.

Water was another important concern we heard. Some accused us of just wanting the land to sell the water during the drought. This was absurd, of course, because we need to use the water for housing. But we addressed the concerns none the less. Under the terms of the agreement, the new development will be water neutral during drought years. We will accomplish this by removing up to 50 acres of the existing agriculture on the property and by recycling all wastewater. It is also worth noting that the Indian Non-Intercourse Act prohibits the removal of water from tribal trust lands without express statutory authorization. So, to export water off the reservation we would require subsequent legislation from Congress.

The last concern was also among the most frustrating. Many that opposed the agreement claim that it is not enforceable in a court of law. While the Santa Ynez Band of Chumash Indians is a federally recognized Indian Tribe that has sovereign immunity, Section V of the agreement includes a limited waiver of that immunity based on our enforceable gaming compact with the State of California. Put simply, if the Tribe fails to up hold its end of the deal, the County has legal remedies to address our failure.

I have just run through a sampling of the issues that came up during the many months of public hearings, open dialogues, and Congressional consideration of this bill. There are many more issues that were raised, and each one received a written answer that is posted on the Santa Barbara County Board of Supervisors webpage (<https://www.countyofsb.org/tribal-matters.sbc>).

In conclusion, I want to thank the Committee once again for the opportunity to be here today. The bill will expedite much needed housing for our tribal members and will set a precedent that good faith negotiations between tribes and local governments will be rewarded.

Thank you Mr. Chairman, and I look forward to answering any questions you may have.

The CHAIRMAN. Thank you, Chairman Kahn. Chair Mejia?

**STATEMENT OF HON. MARJORIE MEJIA, CHAIRPERSON,
LYTTON RANCHERIA OF CALIFORNIA**

Ms. MEJIA. Good afternoon, Chairman Hoeven, Vice Chairman Udall and members of the Committee on Indian Affairs. My name

is Margie Mejia, and I am the Chairperson for Lytton Rancheria, located near Santa Rosa, California. Thank you for inviting me here today to speak in strong support of H.R. 597, the Lytton Rancheria Homelands Act of 2017.

I would like to take this opportunity to recognize Sonoma County Supervisor David Rabbitt, who is sitting behind me today, and thank him and the entire board for their steadfast support of H.R. 597. I would also like to thank the chairperson of the county board of supervisors, James Gore, for his written testimony in support of this vital legislation.

This bill would place land currently owned by the tribe in Federal trust status, creating a tribal homeland for members of the tribe. The creation of this homeland would fulfill a promise made by the Federal Government in a 1991 Federal court stipulation that restored the tribe's status as a federally-recognized tribe.

We have worked hard to develop agreements and understandings with local non-Indian communities. Agreements with Sonoma County, the Windsor Fire Protection District and the Windsor Unified School District reflect our commitment to work with local governments in a mutually respectful manner. We appreciate the support of these governmental entities as well as the State of California for this bill restoring us to a homeland.

I want to also confirm that we have agreed not to conduct gaming on the lands that will be taken into trust for the homeland in this bill. We have also agreed not to conduct gaming within the county of Sonoma, pursuant to the terms contained in our MOA with the county.

I would like to announce today that at the request of Senator Feinstein and the county of Sonoma, the tribe has agreed to further amend the MOA with Sonoma County to prohibit gaming by the tribe in perpetuity in the county, as long as the tribe is not involuntarily prohibited by governmental decision or action from operating its casino in San Pablo, California, pursuant to IGRA. The Lytton Tribe has endured many hardships and has experienced a number of delays and broken promises in its attempt to establish a homeland for its members. No matter how difficult the situation, we may have become discouraged, but we have never given up.

As you know, all tribes, all Native American tribes in all circumstances need a tribal homeland that is adequate to support economic activity and self-determination. We want and need to live in a community where we can thrive and prosper. Please give us that opportunity by passing our homeland bill.

Thank you for your time, and I would be happy to answer any questions.

[The prepared statement of Ms. Mejia follows:]

PREPARED STATEMENT OF HON. MARJORIE MEJIA, CHAIRPERSON, LYTTON RANCHERIA
OF CALIFORNIA

Good afternoon Chairman Hoeven and Vice Chairman Udall, and Members of the Committee on Indian Affairs. My name is Margie Mejia, Chairperson of the Lytton Rancheria in Santa Rosa, California. Thank you for inviting me to present testimony today. I speak in strong support of H.R. 597, the Lytton Rancheria Homeland Act of 2017.

H.R. 597 would right a historical wrong and restore a permanent homeland for the Lytton Rancheria now and for our future generations. The bill provides that lands currently owned by the Tribe in fee would be held in trust by the United States 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 2017.

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 nineteenth century, that number was reduced by ninety-six percent to a population of 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 local, State and Federal policies towards Indians in the 19th century. By the early 1900's most Indians and Indian tribes from the area who 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 that received reservation lands in Sonoma County.

The Tribe resided on the land sustaining itself by farming and ranching until it once again fell prey to a new Federal Indian policy known as "termination". Unfortunately, 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. As a result of termination, the Tribe lost 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 force Indian tribes to disband. Despite the hardships associated with the continuous loss of 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 three other tribes in a lawsuit against the United States challenging the termination of their rancherias. In 1991, the U.S. District Court for the Northern District of California 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 by order of the Court, Lytton's Federally-recognized tribal status was restored. Part of 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 the tribe, and with no home to return to, Lytton remained a landless and impoverished tribe. 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 trust by the United States. Twenty-four years later, the Tribe is still waiting for a new homeland. H.R. 597 fulfills the promises made by the Federal government in the stipulated judgment.

In 2000, Congress directed the Secretary of Interior to take a small parcel of land into trust for the Tribe for gaming purposes in San Pablo, California (Section 819 of Pub. L. 106-568). This action was taken after due consideration and with strong local support. Pursuant to the action by the Congress, 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 services including the provision of education and health care, and has purchased property for a homeland and an area to diversify the Tribe's economic development. While the Tribe's 9.5 acre San Pablo trust parcel is sufficient for the gaming facility, it cannot meet the Tribe's needs for a tribal homeland.

Need for Trust Land

Indian tribes have long been held to be distinct political communities. The inherent sovereignty of tribal governments is recognized in the United States Constitution, as well as in treaties, legislation, judicial and administrative decisions. Like other governments, land is essential for tribes to function as governments. Tribal trust lands are especially important to the tribal provision of governmental services for their citizens, such as housing, health care, education, economic development, and the protection of 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 documents the intent of Congress to address and ameliorate the extensive loss of land tribes have 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."

In addition, every Indian tribe needs to have a homeland in order to assure not only the provision of services to its members but also jurisdiction over its lands to provide the necessary infrastructure and land use planning for future generations. With the exception of the small parcel Congress authorized for gaming in San Pablo, the parcel is not of sufficient size to serve as a tribal homeland, and 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 build housing, community and governmental facilities, and to pursue our 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 - May 1, 2015" shows the property proposed for trust status under H.R. 597 which includes 511

acres. There will be no gaming on any of the lands covered in H.R. 597 which specifically prohibits gaming on any of the lands.

Of the acreage proposed for trust status, the Tribe proposes to use approximately 124.12 acres to address the immediate housing needs of its citizens and for other governmental and community facilities, thereby allowing the Tribe a homeland for its members after fifty years in exile. A portion of the land proposed to be taken 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 cleared out and made environmentally clean again. Additionally, the Tribe has installed wind machines to use during frost warnings to keep the grapes from freezing, rather than using overhead spraying of water from the Russian River like many ranches in the area. This innovative measure will save water from being taken from the Russian River at times that are vital to 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, many of its vineyards have already received sustainability certification pursuant to the practices of the Sonoma County Winegrape Association and the California Sustainable Winegrowing Alliance.

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 has waived its sovereign immunity in the MOA and has 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 one-time payment of \$6 million dollars for mitigation of, among other things, County roads, native oaks, woodlands; and a one-time 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 12% of all rents collected by the Tribe on hotel rooms and vacation rentals.
- This MOA with Sonoma County, involved a great deal of effort, but serves as an example of how local governmental entities and Tribes can work together to address each other's concerns in a thoughtful and respectful manner. I very much appreciate the efforts of Sonoma County to work with the Tribe and appreciate its support for this legislation.

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. The Tribe also sponsors an annual golf tournament to benefit the Brookside Foundation thus providing \$100,000 a year for health care services to an impoverished community. The Tribe has donated \$50,000 to the Boys and Girls Clubs of San Pablo, and contributes \$25,000 a year to the Friendship House in San Francisco to help aid in drug and alcohol rehabilitation in the Bay Area. I proudly serve as the Chairperson of the Board of Directors of the Friendship House.

The Tribe is a naming sponsor of the Luther Burbank 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. The Tribe has also contributed over \$300,000 to other Tribal entities in Sonoma, Lake and Mendocino Counties to address the immediate needs of Native Americans impacted by the devastating fires that recently occurred in northern California. These are just a few examples of Lytton Rancheria using its resources to assist its local communities and neighboring Tribes.

On the Federal level, Lytton Rancheria does not accept any Federal funding for which it is eligible as a Federally-recognized tribe with the exception of Indian Health Service (IHS) funding, which the Tribe immediately turns over to the Sonoma Indian Health Clinic. This Clinic provides health care for all Indians residing in Sonoma County, regardless of tribal affiliation. The remainder of the Federal funding that the Tribe is eligible to receive goes to the local BIA agency to assist other tribes

Memoranda of Agreement

As referenced above, 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. All of these entities strongly support H.R. 597.

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 reasons.

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 a year and increase up to \$50,000 a 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 acts 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 has discussed the possibility of using services from the Town of Windsor for water and sewer 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. If approved by the Town residents, the Tribe is prepared to pay its fair share of costs required for such services as well as to assist the Town with other priorities it has for its citizens.

Governor of California

Governor Jerry Brown Jr. has consistently voiced support for the Lytton Tribe's efforts to secure a Tribal Homeland. The Governor, on behalf of the State of California, supports this legislation.

Opposition to the Lytton Homeland Bill

I am aware of two entities opposing the Lytton Homeland bill -- a small group of individuals living in and around the town of Windsor who call themselves the "Citizens for Windsor", and the City of Petaluma. I point out the opposition in my testimony because I do not want to take the chance that the assertions raised by these entities will go unchallenged during the hearing on our bill.

The Citizens for Windsor have consistently made false claims to the press and various government officials. Those claims can be summarized as follows:

- 1) The Tribe intends to destroy a self-sustaining Blue Oak Woodlands by cutting down 1500 trees.

The County has recognized in the MOA that the Tribe has adequately mitigated the loss of the trees. It should be noted that the trees are not protected by local, State or Federal law and that the Tribe has been advised to thin the forested area for fire protection purposes regardless of whether the housing is constructed.

2) The Tribe's project threatens the water supply of the local community.

The water resources to be used in these projects will most likely be groundwater. Under California law, the groundwater under the Tribe's property is owned by the Tribe – not the local community. In addition, the area where the Tribe's land is located is not an area of groundwater depletion as determined by the County of Sonoma.

3) The Tribe threatens to spray raw sewage water close to a neighboring community.

If the Tribe does not use the sewer services of the Town of Windsor, it will construct its own wastewater treatment plant. In the MOA, Sonoma County has agreed to such construction with the addition of certain requirements contained in an exhibit attached to the MOA. The treatment plant will operate much in the same way as the plant operated by the Town of Windsor, which is located directly across the street from a residential subdivision. No raw sewage will be sprayed. To do so would violate a host of local, State and Federal laws.

4) The Tribal projects are inconsistent with local zoning and land use requirements.

When land is taken into trust for Tribes, local land use and zoning laws typically no longer apply. In conjunction with the County, the Tribe developed its own general plan and with the exception of the housing project and the winery and hotel locations, the Tribe will comply with the County's land use and zoning laws for the term of the MOA.

5) The Tribe can build whatever it wants without environmental consideration.

While it is true that state environmental law will not apply to the lands that are taken into trust by the United States, the Tribe and County have carefully crafted an environmental review and mitigation process that requires the Tribe to mitigate any off-reservation impacts of future projects. The housing project impacts have been addressed pursuant to Federal law (NEPA) and a FONSI was issued in 2012.

6) The Lytton Tribe is prohibited by the Supreme Court's *Carcieri* decision from having land taken into trust.

There are several paths for Indian Tribes to take land into trust. Congress has plenary authority to take land into trust on behalf of Tribes and has done so on numerous occasions. In addition, Congress has delegated authority to the Department of the Interior (DOI) pursuant to Section 5 of the Indian Reorganization Act (25 U.S.C. §

5108) to take land into trust for "Indians", and the definition of the term "Indian" includes Indian Tribes.

As the members of this Committee know, Congress' authority to take land into trust for a Tribe is separate from the Interior Department's administrative process. Judicial decisions affecting the administrative process do not prohibit Congress from enacting our Homeland legislation. In short, the *Carcieri* decision has no impact on Congress's legislative authority to establish the Lytton Homeland.

In reviewing the opposition letter sent by the City of Petaluma to Senators Feinstein and Harris, the City takes the position that it is opposed to the legislation because it does not believe that Federally-recognized tribes should be able to have fee land taken into trust regardless of need or purpose. In other words, the City disagrees with long-standing Federal policies encouraging and strengthening tribal self-sufficiency and self-determination. I urge the members of this committee to reject the city's position as it is not only inconsistent with well-established Federal law and policy, but is also counter to the needs and interests of all tribes.

Closing

In closing Mr. Chairman, I want to thank you and the members of this committee 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 that there is once again tribal land to house our people.

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 securing agreements with our local non-Indian communities. All we need now is for the United States to finish what was promised to us when our status was restored. As a sovereign tribal government, we want our land to be held by the Federal government in trust for the Lytton Rancheria.

Passage of H.R. 597, the Lytton Rancheria Homeland Act of 2017, will restore my people to where we were before termination. I hope you will continue to support the Lytton Rancheria and report H.R. 597 out of committee and to the full Senate in the near future.

Thank you.

The CHAIRMAN. Thank you, Chair Mejia. Mr. Healy?

STATEMENT OF HON. MIKE HEALY, COUNCILMEMBER, CITY OF PETALUMA, CALIFORNIA

Mr. HEALY. Thank you, Mr. Chair and honorable members of the Committee. I am here today in two different roles. First, as an elected member of the Petaluma City Council, and currently our city's vice mayor. My colleagues and I have submitted two letters opposing H.R. 597 which I will briefly summarize and are included in my full testimony. Secondly, because the opponents of the bill have been allocated only one witness, I will speak on behalf of the grassroots group, Citizens for Windsor.

Petaluma has a population of 61,000 and is located on Highway 101 in southern Sonoma County. We are 25 miles south of the town of Windsor, which has a population of 27,000 and is located in central Sonoma County. The lands that are the subject of H.R. 597 are adjacent to Windsor.

My colleagues' and my concerns with H.R. 597 are two-fold. First, the more narrowly—I am going to skip this part of it, because I believe the Chair has actually responded to this question. Thank you for that.

Second, and more broadly, we are very concerned that H.R. 597 represents another unsavory step in the reservation-shopping saga in the north bay, both by newly-recognized and long-established tribes. All nine cities in Sonoma County are surrounded by voter-approved urban growth boundaries to prevent sprawl-type development. Layered over that are voter-approved urban separators and county zoning that support the same policy goals.

Cities in our region are surrounded by privately-owned ranches and farms outside urban growth boundaries in areas zoned for agriculture. These lands are off-limits to intense development. There are enormous financial incentives to find ways to develop such lands, especially in the Bay area. And that financial pressure will only intensify in the future.

The Lytton proposal on H.R. 597 provided a blueprint for frustrated landowners and anti-zoning developers to partner with the tribe and override carefully designed regulations limiting sprawl development on lands adjoining cities throughout the region. And for those reasons, even with the amendments that we have requested, my city council urges a “no” vote on H.R. 597.

There are other significant concerns. This land has not gone through the BIA's normal fee-to-trust review process and would not qualify for trust status. The BIA has never approved fee-to-trust applications for the Lytton Rancheria. The tribe was recognized in 1991 and the Carcieri decision holds the Federal Government cannot take land into trust for lands that were not recognized after 1934.

H.R. 597 is in effect a Carcieri fix and would benefit only one tribe. This evasion of the BIA fee-to-trust application process will set a bad precedent for new Indian policy in Sonoma County, California and the entire United States.

In 2000, Representative Miller added a paragraph to the Indian Omnibus Bill to take nearly 10 acres of land into trust as a homeland for the Lytton so that they could operate a casino on it. That land is located in San Pablo in Contra Costa County. This was one of the few reasons that California then-Attorney General Kamala Harris' office opposed land into trust in Windsor and in a 2011 letter to the BIA said, “To the extent that the Act describes those 10 acres of land as Lytton's reservation, this provision makes clear that the Lytton's tribal location should be considered to be Contra Costa County, rather than Sonoma County.”

In that letter, then-Attorney General Harris' office further argues that the land under consideration never received a complete environmental review and should not be considered until this is done. The EA for the proposed housing in Windsor is almost 10 years out of date and covers just 124 acres. There has been no environmental

review for the entire 500 acres H.R. 597 takes to put into trust adjacent to Windsor.

This homeland bill purports to be about housing, but the Lytton have plans for a large commercial project, a 200-room hotel, restaurants, shops, event center, a 200,000 case per year winery on land that is currently zoned agricultural. This commercial development is outlined in the 2015 memorandum of agreement that the Lyttons signed with the County of Sonoma, but it is not mentioned anywhere in the bill. The County negotiated the MOA, obligating it to support the Lyttons' fee-to-trust efforts after the count mistakenly assumed that the land might be taken into trust by the BIA.

Because this land is outside of Windsor's open growth boundary, where a vote of Windsor residents is legally required to extend utilities, there are no assurances of the use of municipal water or sewer. There are many other irreparable environmental impacts, such as clear-cutting of growth of 1,500 historic oak trees. In addition, the proposed development is on narrow country roads, inaccessible to Highway 1 in an emergency.

In 2017, the Lytton purchased from Salvation Army 564 acres of contiguous land adjacent to their historic rancheria at Lytton Springs near Highway 101. If it is determined that it is appropriate to help the Lytton to have a homeland in both Contra Costa and Sonoma counties, then this is a site that is far more appropriate for the proposed Lytton development, given its proximity to Highway 101, its past uses for residential and commercial purposes. It should be given serious consideration before any action on H.R. 597.

Finally, a compromise is certainly possible that would place a second Lytton reservation at an appropriate location. Thank you, Mr. Chair.

[The prepared statement of Mr. Healy follows:]

PREPARED STATEMENT OF HON. MIKE HEALY, COUNCILMEMBER, CITY OF PETALUMA,
CALIFORNIA

Mr. Chairman and honorable members of the Committee. I am here today in two different roles. First, as an elected member of the Petaluma City Council and currently our city's vice-mayor. My colleagues and I have submitted two letters opposing H.R. 597, which I will briefly summarize.^{1A}^{1,2} And secondly, because opponents of the bill have been allocated one witness, I also will speak on behalf of the grassroots group, Citizens for Windsor. Mr. Chairman,

Petaluma has a population of 61,000 and is located on U.S. Highway 101 in southern Sonoma County. Petaluma is 25 miles south of the Town of Windsor, which has a population of 27,000 and is located in central Sonoma County. The lands that are the subject of H.R. 597 are adjacent to Windsor.

My colleagues' and my concerns with H.R. 597 are two-fold. First and more narrowly, Section 5 of H.R. 597 paints a bull's eye on my city by offering only a 20-year prohibition on gaming on additional lands taken into trust for the Lytton in southern Sonoma County. Petaluma is the most logical place for a new casino in Sonoma County. My colleagues and I have offered specific statutory language to fix this serious problem.

Second and more importantly, we are very concerned that H.R. 597 represents another unsavory step in the reservation-shopping saga in the North Bay, by both newly recognized and long-established tribes. All nine incorporated cities and towns in Sonoma County are surrounded by voter-approved Urban Growth Boundaries (UGB) to prevent sprawl-type development. Layered over that are voter-approved community separators and county zoning that support the same policy goals. Voters in each of Sonoma County's nine incorporated communities have approved UGBs, drawing distinct lines where communities can and cannot grow. For example, in No-

ember, 2017, Windsor voted to renew their UGB for another 25 years with over 70 percent approval.

Cities in our region are surrounded by privately owned ranches and farms outside Urban Growth Boundaries in areas zoned for agriculture. These lands are off limits to intense development. There are enormous financial incentives to find ways to develop such lands, especially in the Bay Area, and that financial pressure will only intensify in the future. The Lytton proposal and H.R. 597 provide a blueprint for frustrated landowners and anti-zoning developers to partner with a tribe and override carefully designed regulations limiting sprawl development on lands adjoining cities throughout the region. Denise Athas, current Novato City Council member, also recognized this.³ For those reasons, even with amendment to Section 5, The City Council of Petaluma urges a “no” vote on H.R. 597.

There are other significant concerns with H.R. 597. This land has not gone through the normal review process for fee-to-trust land with the Bureau of Indian Affairs, and does not qualify for trust status.^{4, 5, 6, 7} The BIA has never approved any fee-to-trust application for Lytton Rancheria.

In 1927 the U.S. Department of Interior Office of Indian Affairs purchased 50 acres at Lytton Springs, north of Healdsburg, in Sonoma County for “homeless California Indians.” In 1937, Bert Steele, a ¼ blood Indian from Round Valley, with his wife Mary, a Sonoma County Pomo, and their children, requested permission to occupy a portion of the land. They were permitted to build a house there. In 1938, the brother of Mary Steele, John Myers and his wife Dolores, also requested permission to occupy a part of the Lytton parcel. They were permitted to build a house there.

In the 1950s the family members petitioned their Congressman to receive titles to the parcels and supported the passage of a bill that would terminate the Rancheria and enable them to secure a deed to their property. Following the passage of the Rancheria Distribution Act in 1958, the Rancheria was dissolved in 1961, and the property was divided into eight parcels, which were distributed to eight family members. Following this, all eight parcels were sold by the distributees to non-Indians.

In 1986, lawyers for the Scott’s Valley Band of Pomo Indians of the Sugar Bowl Rancheria filed suit in federal district court saying termination of their rancheria in 1961 was illegal. In 1987, the “Lytton Indian Community” joined the Sugar Bowl Rancheria lawsuit.

In 1991, without a jury trial and negotiated in closed session, a consent agreement was reached between the plaintiffs, the U.S. Department of Justice and Sonoma County Counsel. The settlement stipulated that the Lytton Community would be listed as a tribe in the federal register.⁸

The Supreme Court’s decision in *Carcieri v. Salazar* holds that the federal government cannot take land into trust for tribes that were recognized after 1934, which includes the Lytton. H.R. 597 is in effect a “*Carcieri* fix,” which will benefit only one tribe. This evasion of the BIA fee-to-trust application process will set a bad precedent for new Indian policy in Sonoma County, California, and the entire United States.

In 1998 a group of investors bought a former card room in San Pablo on nearly 10 acres for the Lytton. In 1999, the Lytton, backed by their investors, applied to have the 10 acres, in the heavily urbanized East Bay, put into trust for them. The BIA told them this land would not qualify for an exception to the rule that lands acquired after 1988 cannot be used for gaming.

In 2000, Congressman George Miller added a paragraph into the Indian Omnibus bill directing the Secretary of the Interior to take the land with the cardroom in San Pablo, Contra Costa County, into trust as a reservation for the Lytton, and to backdate the acquisition to 1988, so that they could operate a casino on it.

Lytton investors, known as Sonoma Entertainment Partners LP, also purchased 50 acres of land west of Windsor in Sonoma County in 2002, which they promised to give the Lytton once the San Pablo site became a casino.⁹ In 2007 following the opening of the casino in San Pablo, they gave the tribe the 50 acres. Lytton Rancheria purchased additional land with funds from their San Pablo casino. In 2009, they submitted a fee-to-trust application to the Bureau of Indian Affairs to develop a housing project, which did not conform with local land use zoning.¹⁰ A draft environmental assessment on 92 acres was released in 2009 for public comments.¹¹ After the public comment period, when an amended fee-to-trust application was submitted, an additional 32 acres was added in the final environmental assessment in 2011.^{12, 13}

In response to the Environmental Assessment of Lytton Rancheria’s newly acquired Windsor lands, Attorney General Kamala Harris’ office had considerable concerns.¹⁴ Her office stated in a letter to the Bureau of Indian Affairs, “. . .to the ex-

tent that act [Omnibus Indian Advancement Act of 2000] describes those 10 acres of land [San Pablo] as Lytton's 'reservation,' this provision makes clear that Lytton's tribal location should be considered to be Contra Costa County rather than Sonoma County. . . ."

The Attorney General's office also argued in that letter that the land under consideration never received a complete environmental review and should not be considered until this is done. Her office noted, "The final Environmental Assessment (EA) includes 32 additional acres that were neither included in the Tribe's application nor evaluated in the draft EA." And, "The draft EA contained no assessment whatsoever of the environmental impacts arising from the acquisition of the 32 acres or from the placement of project features on them." One aspect of the proposed project revealed for the first time in the current Final EA is the construction of a large effluent retention basin on a portion of the additional 32 acres immediately adjacent to an existing housing subdivision. Her office noted that the inclusion of the 32 acres in the final EA constituted a shortening of the environmental review process, which "deprives the public of the opportunity to comment on that portion of the proposed acquisition with the prospect of any response and modification by the Tribe." In addition, the AG's office noted that Proposed Alternative "A"—wherein the tribe's housing units would be served by City of Windsor water and sewage treatment facilities—is precluded by a voter initiative limiting the boundaries of that area. "Alternative A is therefore illusory."

The Attorney General's office noted that the National Environmental Policy Act of 1969 (NEPA) requires the preparation of an environmental impact statement (EIS) for major federal actions significantly affecting the human environment. Agencies are required to make diligent efforts to involve the public in preparing and implementing their NEPA procedures. In light of this 35 percent increase in acreage, and "in a diligent effort to involve the public in the decisionmaking process," the AG's office recommended the tribe be required "to produce a full Environmental Impact Statement (EIS) concerning this large project adjacent to the Town of Windsor."

In his 2009 letter to the BIA at the time of the Environmental Assessment, Paul Kelley, then-Chairman of the Sonoma County Board of Supervisors agreed with the Attorney General's office that the EA was insufficient.¹⁵ He wrote, in a letter to Dale Morris at the Bureau of Indian Affairs, "the project is substantial in size, scope and affected resources. The project is inconsistent with the general plans and land use regulations of both the County and the Town of Windsor, and may have additional significant effects on [the] oak woodland and other biological resources, groundwater supplies, regional water quality, air quality, and climate, noise, traffic, and aesthetics." Supervisor Kelley noted that ". . . the County's fundamental interest is full and fair disclosure of all adverse environmental impacts proposed in the County—before final action is taken. Meeting that interest here and complying with the National Environmental Policy Act (NEPA), requires preparation of an environmental impact statement (EIS) rather than an EA." Kelley also asserted that an EIS is necessary to correct the EA's misstatements, "Without an EIS that provides correct information, neither the BIA nor the public can make a proper informed evaluation of the proposed project."

This "homeland" bill purports to be about housing, but the Lytton have plans for a large commercial development—a 200-room hotel, restaurants, shops, event center, 200,000-case-per-year winery—on land that's currently zoned agriculture and rural. The proposed project does not conform with local land use zoning. This commercial development is outlined in a 2015 Memorandum of Agreement the Lytton signed with the County of Sonoma, but it is not mentioned anywhere in this bill.¹⁶ The County negotiated its MoA with Lytton—with no public input—obligating the County to support Lytton's fee-totrust efforts, after the County mistakenly assumed that the land might be taken into trust by the Department of the Interior.

Although ultimately in 2012 the Final EA of the 124 acres received a Finding of No Significant Impact (FONSI),¹⁷ there has been no EA (nor EIS) of the entire 511+ acres the Lytton propose to take into trust through H.R. 597, including the large commercial project referenced in the County's MoA. The existing EA for the proposed housing in Windsor is almost 10 years out of date and it covers just 124 acres of the 511+ acres in this bill. In its MoA with Lytton Rancheria, the County proposes a separate EIS on the winery/resort project; however, to determine the full impact on the region, and enable proper public input, it is necessary to complete an EIS on the entire Lytton acreage referred to in H.R. 597, including all proposed projects. Completing an EA or EIS as separate, piecemeal projects, does not adequately demonstrate the full environmental impact of the projects on the region, including the Town of Windsor.

And, because this land is outside of Windsor's Urban Growth Boundary (UGB), there is no assurance of receiving environmentally responsible municipal water or sewer. A majority vote of the Town of Windsor residents is required to extend the Town of Windsor's water & sewage services to this—and any—property outside of the Town's UGB. There would be many other irreparable environmental impacts, for example, clear-cutting a grove of 1,500 historic oak trees. In addition, the proposed commercial developments outside of Windsor are on narrow country roads inaccessible to Highway 101. This is a key consideration in times of emergency—such as the devastating fires the County experienced in October, 2017.

The Town of Windsor has recognized these significant concerns with two resolutions in 2002 and 2009 "Opposing Reduction of Health, Safety and Zoning Standards by Development on Land Adjacent to the Urban Growth Boundary by the Lytton Band of Pomo Indians."¹⁸

In 2017, the Lytton purchased from Salvation Army 564 acres of contiguous land adjacent to their historic rancheria at Lytton Springs, and to Highway 101.¹⁹ If it is determined that it is appropriate for the Lytton to have a reservation in both Contra Costa County and Sonoma County, then this site is a far more appropriate location for the proposed Lytton development, given its proximity to Highway 101, and its previous uses for both residential and commercial purposes. The Lytton Springs property should be given serious consideration before any action is taken on H.R. 597.

Supporting Documents*

1. Petaluma City Council to Senators Feinstein and Harris, Sept. 18, 2017
2. Petaluma City Council to Senators Feinstein and Harris, November 6, 2017
3. Athas to Senators Feinstein and Harris, March 13, 2018
4. Office of the Governor to BIA, Oct. 8, 2009
5. Lytton Historical Documents from the National Archives, 1927–1953
6. Mitchell to BIA, Dec. 20, 2016
7. History of Lytton Rancheria by Mike Bojanowski, 1990
8. Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria, et al. Plaintiffs, v. United States of America, et al., Defendants, Stipulation for Entry of Judgment (Lytton), 1991
9. "Pomos Homes on Hold," by Sam Kennedy, *The Press Democrat*, August 4, 2002
10. Fee to Trust Application for Lytton Rancheria, 2009
11. Lytton Draft Environmental Assessment, 2009, <http://www.lyttonhousingea.com>
12. Amended Fee to Trust Application for Lytton Rancheria, 2011
13. Lytton Final Environmental Assessment, 2011, <http://www.lyttonhousingea.com>
14. Office of the Attorney General Kamala Harris to Bureau of Indian Affairs, 2011
15. Sonoma County Board of Supervisors Chairman Paul Kelley Letter and EA Comments, October 8, 2009
16. County of Sonoma Memorandum of Agreement with Lytton Rancheria, 2015
17. FONSI, <http://www.lyttonhousingea.com>
18. Windsor Town Council, Resolutions No. 1300–02 and No. 2458–09
19. Map, Town of Windsor, San Pablo, Lytton Springs

The CHAIRMAN. Thank you, Mr. Healy. Mr. Krauch?

STATEMENT OF WILLIAM "BILL" KRAUCH, CHAIR, SANTA YNEZ VALLEY COALITION

Mr. KRAUCH. Thank you, Chairman Hoeven and Vice Chairman Udall, for holding this hearing today, and for the opportunity to testify on H.R. 1491.

We strongly oppose this bill because of its significant adverse effects to the community in the Santa Ynez Valley. I also want to especially thank Senators Feinstein and Harris for ensuring this legislation receives careful examination and thoughtful consideration.

While this is a California-specific issue, all Committee members need to be made aware of how the abuse of the Federal fee-to-trust

*The information referred to has been retained in the Committee files.

process would be endorsed by this bill and could also increasingly affect communities in your own home States.

I am Bill Krauch, Chair of the Santa Ynez Valley Coalition and resident of the valley for 36 years. The coalition is a local citizens group whose members have worked for years to preserve the undeveloped and agriculture areas in the Santa Ynez valleys. The property addressed by the bill at Camp 4 and its uses have been the subject of much discussion over the years. It is 1,400 acres of farmland and open space that is the gateway to the Santa Ynez Valley.

In 2010, the tribe purchased Camp 4 from the heirs of former TV star Fess Parker for \$44 million. Parker had unsuccessfully tried to develop Camp 4 into a million-square foot resort by himself and in partnership with the tribe. All were rejected as an affront to the county's land use plan and the result that would destroy the character of our valley.

Shortly after the Chumash acquisition, the tribe commenced efforts to have the Federal Government take the land into trust on their behalf. After an inadequate analysis, the BIA approved this request, as they have every other fee-to-trust request in the western region. Santa Barbara County, other local organizations and individuals legally challenged the BIA's actions. However, our administrative appeal rights to challenge this, what we believe to be an illegal fee-to-trust decision, were taken from us in the waning hours of the Obama Administration when the BIA approved the Chumash fee-to-trust. The application notwithstanding, there was strong local opposition without a sufficient record to make a final decision.

The coalition has now gone to Federal court to challenge the BIA's approval of fee-to-trust for Camp 4, which brings us to the bill you are hearing testimony on today. We strongly believe that absent significant changes, the Committee should reject this bill. It is the product of a badly-flawed negotiating process between the tribe and Santa Barbara County, where the board of supervisors was effectively bullied into signing a weak, fiscally irresponsible memorandum of agreement. As was repeatedly disclosed by the board of supervisor chair, house congressional leaders effectively demanded that the county sign an agreement with the tribe, or they would enact 1491 with few restrictions on the tribe's use of Camp 4.

Specifically, we think the following changes are needed to resolve issues associated with the development of Camp 4. First, we must address the tribe's housing and community facility needs, but not on Camp 4. The tribe owns property better suited to safely accommodate these interests with much-reduced impact on the existing community.

Second, extend the length of the agreement. The MOA expires in 2040, approximately 22 years from today. Third, protect Santa Ynez's water. We are very concerned about what water rights are conveyed to the tribe from this legislation, and that this issue must be clarified in H.R. 1491 to avoid substantial litigation in the future.

Fourth, allow citizen suits to enforce the MOA. Santa Barbara County is the only part that can enforce the MOA's terms on behalf of the county's citizens. Given the county's lack of leverage, as evi-

denced in the Chumash negotiations, we only seek this request to ensure that the obligations regarding Camp 4 are enforced.

Finally, prevent a gaming bait and switch. While H.R. 1491 permanently prohibits gaming on Camp 4, it does not prevent expansion of gaming by the Chumash. When the new homes are built on Camp 4, the homes on the existing reservation could be razed, and that land could be used to build a second casino or significantly expand the existing one.

In closing, rather than legislate outcomes on individual land disputes like this one, the Committee should instead act to reform the fee-to-trust process, as the Senate came close to doing in the last Congress. Thank you for the opportunity to share our views. We understand and recognize that the Chumash are our neighbors, and we are committed to helping them address their housing needs. All we are asking is the same thing that is asked of every non-tribal resident in the valley, to help us conserve its character and resources for all future generations. Thank you.

[The prepared statement of Mr. Krauch follows:]

PREPARED STATEMENT OF WILLIAM "BILL" KRAUCH, CHAIR, SANTA YNEZ VALLEY COALITION

Introduction & Overview

Thank you Chairman Hoeven and Vice Chairman Udall for holding this hearing today and providing us the opportunity to testify on H.R. 1491, a bill we strongly oppose because of its significant adverse effects to the community in the Santa Ynez Valley of California. I also want to especially thank our Senators, Senator Feinstein and Senator Harris, for their commitment to ensuring that this legislation receives close examination and thoughtful consideration. While this is a California-specific measure, all Committee members need to understand that this legislation's endorsement of an abuse of the fee-to-trust process could very well set a national precedent and lead to an avalanche of similar requests for Congress to intervene in fee-to-trust requests in Members' home states.

I am Bill Krauch, the Chair of the Santa Ynez Valley Coalition and a resident of the valley for the past 36 years. The Santa Ynez Valley Coalition is a local citizen's advocacy group whose members have worked for years to preserve the undeveloped and agricultural areas around Santa Ynez from over-development. The mission of the Coalition is to ensure that Santa Ynez Valley residents have a strong voice in land use decisions affecting our water, environment, public safety, and economy. Our education and outreach efforts focus on the need to maintain local control of land use in our community, a principal at grave risk if H.R. 1491 is enacted.

Our members—many lifelong neighbors and friends of the Chumash—are strongly supportive of the Tribe's efforts to better address their housing and community facility needs. However, whatever steps that are taken should be done in a manner consistent with existing local land-use planning guidance and regulations which every other property owner in the County must comply. Numerous Administrations have been before this Committee in recent years to implore action to reform the fee-to-trust process to protect the jurisdiction rights of local communities, and we join them in that call. Congress is ill equipped to insert itself as zoning commissioners in communities with tribal interests.

Background & History

To better understand our concerns about the impacts of H.R. 1491, some context is in order regarding the land which would be placed in trust for the Chumash, and how it may be developed in a way inconsistent with the community's wishes. The Santa Ynez Valley—located in central Santa Barbara County between the Santa Ynez and San Rafael Mountains—has a population of just over 20,000 with its small towns linked by rural roads weaving through fertile farmlands, ranches, and open space. The Los Padres National Forest, home to the condors, overlooks this Valley, as does President Reagan's beloved Rancho Cielo. The local economy in the Valley

revolves around agriculture and tourism and its land use plan restricts building heights and prohibits commercial box stores and fast food restaurants.¹

One-mile northeast of the Town of Santa Ynez lies Camp 4, a 1,400-acre parcel of open space and agricultural land—the land that the Tribe wishes to put into trust via H.R. 1491. As you cross through the San Marcos pass in the Santa Ynez Mountains on Highway 154, Camp 4 is the gateway to the Santa Ynez Valley. It features the largest aquifer in the area as well as supporting wildlife and plant species that are important to conserve, with its variety of habitats including grasslands, oak savannas, and riparian. In fact, much of the Camp 4 parcel is presently covered by “Williamson Act Agreements” which are state-enforced contracts entered into with local landowners to keep land in agricultural use or to conserve it as open spaces. It is presently zoned as such to allow a density of only one house per 100 acres.

In 1998, Camp 4 was purchased by a private landowner, the former TV star Fess Parker, and he sought to up-zone the property to increase development density so that he could build a large resort and additional residential units. He was denied that rezoning repeatedly by Santa Barbara County, who believed that such a use was highly inconsistent with the local, lightly travelled roads and surrounding agricultural lands. In 2004, Parker and the Chumash jointly announced a plan to place Camp 4 into “trust” and make it part of the reservation to circumvent these local land use restrictions. If successful, this scheme would have allowed Parker’s vision of massive development on Camp 4 to become a reality. However, after this announcement the proposed partnership was never finalized.

In 2010, the Tribe purchased Camp 4 from Parker’s heirs for \$44 million and shortly after that, commenced efforts to have the federal government take the land into trust on their behalf. In June 2013, the Pacific Regional Director of the Bureau of Indian Affairs (BIA) approved the Tribe’s application for a Tribal Consolidation Area (TCA) covering 11,500 acres within which the 1,400-acre Camp 4 parcel is located. If enacted, this TCA would have significantly reduced the standard of review of the Tribe’s development plans for Camp 4 and all lands within the TCA. Later that year, faced with appeals and public protests, the Tribe withdrew its application for the TCA which the BIA dismissed without prejudice. However, the BIA nonetheless then improperly and illegally used these reduced standards to analyze the Chumash’s fee-to-trust application for Camp 4. As a result, Santa Barbara County, members of the Santa Ynez Valley Coalition, and other local organizations and individuals all legally challenged the BIA’s actions in this regard.

While the County and community were still in the process of exercising our rights to appeal the BIA’s actions, our right to appeal was unceremoniously stolen from us in the waning hours of the Obama Administration in the dark of night. The BIA approved the Chumash fee-to-trust application notwithstanding the strong local opposition and without a sufficient record to make a final decision. In doing so, the BIA denied due process for the non-Indian communities and residents adversely impacted by potentially unregulated land use on an expanded Chumash reservation. This action vitiated pending administrative appeals of affected communities, organizations and residents who were following the current laws to have their point of view heard. Despite this action, the current Administration is still reviewing the matter and has refused to publish a final decision in the Federal Register, which is one reason why the Chumash are here asking the Congress to over-ride the process the Congress itself put in place to adjudicate such matters.

The Coalition is now supporting litigation in federal court challenging the BIA’s approval of the Chumash’s Camp 4 fee-to-trust application. The suit asserts that the Department of Interior’s decision to take this action was based on an insufficient analysis of its environmental and other impacts as required by the federal law. If this suit prevails in Court, the decision to take Camp 4 into Trust will be reversed, and the federal government will be required to undertake a more thorough analysis of the impacts of this action.² H.R. 1491 would also dismiss these appeals, further disenfranchising the citizens of the valley.

Reasons to Reject H.R. 1491

We strongly believe that absent significant changes, the Committee should not support this bill. It is a product of a badly flawed negotiating process between the Tribe and Santa Barbara County where the Board of Supervisors was effectively bullied into signing a weak, fiscally irresponsible memorandum of agreement (MOA) whose limited restrictions sunset in just over two decades.

¹ Santa Ynez Valley Community Plan, October 2009—http://longrange.sbcountyplanning.org/planareas/santaynez/syv_cp.php

² Detailed Camp 4 history—<http://syucoalition.com/wp-content/uploads/2018/04/Camp-4-Timeline.pdf>

The Committee will no doubt hear much about this MOA between the County and the Chumash from the bill's proponents. They will assert that its mere existence should justify the Senate passing this bill with no changes. Do not be fooled by these claims. This agreement is lopsided and short-term, and likely sets in motion an eventual overdevelopment of Camp 4 in a manner that Fess Parker proposed two decades ago.

The Committee should carefully examine the back-story about this agreement and the evolution of the County's position so it can judge for itself whether it represents a meaningful agreement between the County and the Chumash.

Before last year, Santa Barbara County was a staunch opponent of both the redevelopment of this land at all, and the Camp 4 fee-to-trust application. In fact, the County was so strongly opposed it testified in opposition to similar legislation in the previous Congress and filed both administrative and judicial challenges against the BIA Camp 4 fee-to-trust decision. However, in the fall of last year, all of that changed.

As the Chair of the Board repeatedly stated during several public meetings in 2017, House Congressional leaders effectively demanded that the County sign an agreement with the Tribe or they would enact H.R. 1491 with few restrictions on the Tribe's use of Camp 4. Hence, the County was forced to accept a deal of far too limited duration, with anemic payments for utilities and other infrastructure related to Camp 4 that is a fraction of their actual cost and which would in no way replace the lost tax revenue from the parcel being placed into trust.

These were NOT good faith negotiations—evidenced by the fact that the MOA now requires the County to only advocate for a version of H.R. 1491 that includes the MOA—a gag order that shows how lopsided this framework is. This condition alone shows why our Coalition must now speak for the vast majority of the Valley's residents who oppose the MOA as now crafted and who vigorously oppose this bill in its current form.

While the MOA does limit the development on Camp 4 through 2039 to 143 houses on one-acre improved lots and a community center, and even permanently bans gaming on Camp 4, it does not address the broader fee-to-trust problem in the Santa Ynez Valley nor does it address the expansion of gaming in the rest of the Valley.

Proposed H.R. 1491 Fixes to Address Community Concerns

The leaders of the Santa Ynez Valley Coalition have spent thousands of hours studying the MOA and speaking to our neighbors in the Valley about their views on its contents. From those conversations, we see a handful of issues that are insufficiently addressed in the MOA and H.R. 1491 that show how flawed they really are and which must be corrected to resolve the development of Camp 4 in a way that the community and the Tribe can live in relative harmony.

1. Address the Tribe's Housing & Community Facility Needs—But Not on Camp 4

The Tribe has legitimate needs for housing and community facilities, but they are best addressed on smaller, but more than adequate parcels of land better suited to safely accommodate these needs. After filing for fee-to-trust status for Camp 4, the Chumash purchased approximately 369 acres near Camp 4 that is a superior alternative because:

- It satisfies the stated needs of the Tribe for 143 homes on one acre improved lots and a 30 acre tribal center which would consume about 200 acres of the parcel, virtually separated only by a 2 lane roadway;
- It is physically closer to the existing reservation;
- It is adjacent to existing town infrastructure and would be an extension of existing residential development areas versus "leapfrogging" to Camp 4;
- It is located so that the County would probably grant zoning thereby avoiding the fee-to-trust process on that parcel altogether;
- It lowers building cost to the Tribe versus a development spread out over 1,400 acres; and
- It is bounded by two major highways, versus two rural roads adjacent to Camp 4, thereby providing superior ingress and egress.

We would respectfully request that the Committee and tribe consider these other, more suitable options closer to town for the tribal housing and community facility needs that would prevent fracturing the undeveloped 1,400 acres of Camp 4.

2. Extend the Length of the Agreement

As currently configured, the restrictions contained in the Tribe/County MOA will expire in 2040, approximately 22-years from today—even though most homeowners secure 30-year mortgages. Presumably, the Tribe is then allowed to do anything it wants on Camp 4 except gaming, including building a massive additional amount of commercial and residential development, as it proposed in a public meeting in March 2016—a plan very similar to that first proposed by Fess Parker.

As such, the Coalition strongly recommends any action on H.R. 1491 include a provision that continues the use restrictions for Camp 4 contained in the MOA beyond 2040 until subsequently changed by a future Congress. If the Tribe says its intention for Camp 4 is only 143 houses on one-acre improved lots and a tribal center, we should take the Tribe at its word and make that use permanent. Stability of local land use values and preservation of the Valley’s fundamental character and quality of life are only protected with a far longer term of land use restriction than the current 2040 date.

3. Insufficient Protection of the Valley’s Water Supply

We are very concerned that the agreement is unclear about what water rights are conveyed to the Tribe from this legislation and that this issue must be clarified if H.R. 1491 is to help avoid substantial litigation over these rights in the future. Camp 4 sits on the Valley’s major aquifer. The Valley has suffered from severe drought for a number of years as attested to by devastating wildfires earlier this year and has as a result imposed water use restrictions on residents.

The Tribe’s current hotel and casino facilities nearby are already the largest users of local water in the Town of Santa Ynez and H.R. 1491 does not limit water use to that which would support the 143 homes on one-acre improved lots and tribal center or prohibit the export of water to other Tribal-held lands. While the Non-Intercourse Act limits off reservation water marketing unless approved by the Department of Interior, the reserved water rights or Winters doctrine is less clear in what uses a Tribe can exercise so long as the water supports “the purpose of the reservation.” Agricultural use is presumed under Winters, but other uses such as commercial, domestic and municipal activities are generally permitted here too.

Suffice it to say that the precedent setting framework embodied in H.R. 1491 must be clarified to guarantee that ranchers and farmers and other homeowners in the Santa Ynez Valley have access to this precious commodity to maintain their livelihood. The legislation must clarify these rights and prevent a compromised position for the thousands of local residents who will not live on the Camp 4 parcel.

4. Third Party Enforcement of the MOA

Under the Chumash-County MOA, and the terms of H.R. 1491, Santa Barbara County is the only party that can enforce its terms on behalf of the County’s citizens. Inspections to determine compliance are to be done by third parties hired and paid by the Chumash, a mechanism fraught with potential conflicts of interest. The County’s severe financial position—well documented by the Board of Supervisors in virtually every public meeting they hold—makes it unlikely they will spend scarce resources on legal help to compel the Tribe’s adherence to the terms of the MOA or any subsequent restrictions. Given this fact and the County’s weak negotiating posture over the last year, the Coalition believes H.R. 1491—if it advances—must be altered to allow third party enforcement of the County’s obligations to enforce the agreement. We do not seek with this request to interfere with the terms of the County’s agreement with the Tribe, only to make sure that the Tribe lives up to its obligations to ensure the restrictions on Camp 4 are enforced.

5. Prevent a Gaming “Bait and Switch”

While H.R. 1491 permanently prohibits gaming on Camp 4, it does not prevent expansion of gaming by the Chumash. We believe that the bill should prohibit a “bait and switch” where existing houses are demolished on the present reservation after homes are built on Camp 4 or elsewhere, and that land is then used to build a second casino or significantly expand the existing one. H.R. 1491 has been widely advertised by its proponents as having absolutely nothing to do with gaming. Unfortunately, the bill as drafted could lead to a dramatic expansion of this activity despite the fact that the Valley already struggles with the crime, drug trafficking, public health challenges, traffic congestion and other public safety issues associated with the current gaming facility.

What’s Really Needed—Fixing the Broken Fee-to-Trust Process

No one has to remind this Committee that there are serious problems with the existing fee-to-trust program as authorized by the Indian Reorganization Act. This program is in pressing need of reform, according to the testimony before this Com-

mittee by numerous recent Administrations. Bills have been introduced, and hearings held. The current Administration has stated to you recently that it is presently debating recommendations to reform the process.

In our own back yard, the Western Regional Office of the BIA approved every fee-to-trust application from 2001 through 2011—acting as little more than a rubber stamp for California Tribes and in the process and ignoring the legitimate concerns of local communities.³ We believe strongly that the process must be transformed to ensure a balance between tribal and neighboring community interests—to avoid frivolous obstructive tactics but simultaneously guarantee that fee-to-trust applicants abide by rules that protect our natural resources like water and avoid leaving local taxpayers to foot the bills for traffic congestion and other public infrastructure. We believe strongly that the Camp 4 trust acquisition is an abuse of the fee-to-trust process and that if a more neutral analysis were undertaken of it, other more suitable options would be identified that would enable the tribe to address its housing and community facility needs with much-reduced impacts to the surrounding community and environment.

Abuses of the fee-to-trust program such as what is occurring in the Santa Ynez Valley hurt the program for ALL tribes that have legitimate needs to increase the land base of their respective reservations. We believe that further consideration of H.R. 1491 should be suspended until fee-to-trust reforms are considered by Congress and the Administration.

Conclusion

In closing, thank you for the opportunity to share our views. As we stated at the outset, enactment of H.R. 1491 in its current form represents a dangerous erosion of the ability of local governments to engage in meaningful land planning, the consequences of which will spread far beyond the Santa Ynez Valley. Additionally, we understand and recognize that the Chumash are our neighbors, and we are committed to helping them address their housing needs. All we are asking is the same thing that is asked of every nontribal resident in the Valley, to help us conserve its character and resources for all future generations.

The CHAIRMAN. Thank you, Mr. Krauch.

Mr. LaCounte, how do we incentivize local, non-tribal governments to work with tribes on these types of trust applications? In other words, what can you do to bring the parties together?

Mr. LACOUNTE. We certainly will encourage tribes to enter into MOAs with local governments. We strongly advise it throughout the process, from start to finish. It always works better when there is a clear communication line and there is clear land use plans in place.

The CHAIRMAN. Do you have recommendations in this case?

Mr. LACOUNTE. I believe that this case, these cases, they have done an adequate job, the tribes have. And I think they have reached out to the local governments and entered into agreements with them. I was very happy when I read the briefing on this that they had done that.

The CHAIRMAN. For the Chumash land referred to as Camp 4 in H.R. 1491, it has already been taken into trust by the Department of Interior. As you know, the bill would essentially reaffirm the Secretary's decision to take Camp 4 into trust for the benefit of the tribe.

Unlike the memorandum of agreement for the Lytton trust acquisition, under H.R. 597, the Secretary himself has approved the memorandum of agreement pursuant to Section 2103 of the revised statutes. What is the purpose of having the memorandum of agreement approved by the Department of Interior?

³Waples, Kelsey. "Extreme Rubber-Stamping: The Fee to Trust Process of the Indian Reorganization Act of 1934." *Pepperdine Law Review*, 2012, 101-53. <http://syvcoalition.com/wpcontent/uploads/2018/04/Pepperdine-Law-Review-Waples-Apr12.pdf>.

Mr. LACOUNTE. My understanding is that the regional director at that time and the region folks from the Bureau of Indian Affairs took it to our solicitor's department, our legal people, and they made a determination in Santa Ynez that that particular one needed to be approved under 25 U.S.C. Section 81. It was purely advice we received from our attorneys.

The CHAIRMAN. So was that request, this is not a standard practice or requirement for taking land into trust?

Mr. LACOUNTE. It is not.

The CHAIRMAN. Or should it be?

Mr. LACOUNTE. Tribal governments are sovereign nations within this Nation. They should be able to negotiate with other governments within this Nation without our interference. We feel that perhaps it might infringe upon tribal sovereignty.

The CHAIRMAN. Chairman Mejia, during a recent staff visit to the area where you seek to move land into trust, it was apparent that your neighbors utilize a high level of water for the nearby wineries. It is my understanding that the surrounding businesses have all agreed to follow the county's general use water agreement. Does the Lytton Band intend to follow the Sonoma County general use plan as it pertains to water usage?

Ms. MEJIA. We have dealt with the county, we are willing to work with our neighbors and the county to ensure that any use or increases, if any, are mitigated. The tribe uses water on the property currently, as it owns the land in fee, and plans to use the same amount or less water on the property in the future.

The CHAIRMAN. And you have already indicated that you agree to forego all gaming on the land parcels that are being moved into trust?

Ms. MEJIA. Yes, sir.

The CHAIRMAN. Mr. Udall.

Senator UDALL. Mr. LaCounte observed in his testimony that certainty of title is pivotal to the tribe's ability to provide essential government services to its citizens, such as housing, education, health care, and promote tribal economies. Can you both explain how passing this legislation, I am asking the chairman and chairwoman, can you both explain how passing this legislation would provide your tribes the certainty Mr. LaCounte described? Chairman Khan, why don't you start out?

Mr. KHAN. Mr. Vice Chairman, self-determination is vital in Indian Country. Federal programs and services that are available on Federal lands are imperative to success of tribal governments. Enhancing our housing opportunities is really a continued opportunity for us to thrive culturally, through our customs and our traditions. It is our perspective, if we didn't have the ability to have trust lands, that we would probably be extinct today. So it is about cultural survivability for the future.

Senator UDALL. Chairwoman Mejia?

Ms. MEJIA. It is vital for Lytton Rancheria to establish a land base for our homeland as we have been promised. Our tribe was subject to a wrongful termination which forced us to live apart from our community. It is our way of life as Indian people to live as a community and to provide governmental services to our people.

Senator UDALL. Thank you very much for that answer.

I also understand a number of tribal officials from both of these tribes have traveled here a long way from California, so welcome to all the tribal officials who are here in the audience. I think also a county supervisor from Sonoma County is also present today. So thank you for coming to the hearing.

As I noted in my opening, I am concerned with the department's proposed revisions to the land-into-trust process. As NCAI, the National Congress for American Indians, observed, off-reservation acquisitions are vital for Indian tribes. Some tribes are landless. Others have only small, diminished land bases. For an Administration supposedly focused on streamlining, it strikes me as odd that the department is looking at regulations that will make the process more difficult, more time-consuming and more costly, all at Indian Country's expense.

Mr. LaCounte, I have some factual questions for you on this issue. How many land-into-trust applications have tribes submitted to and are pending with the BIA?

Mr. LACOUNTE. There is a little over 1,300 that are pending.

Senator UDALL. And these are since the start of the new Administration, or just these are pending?

Mr. LACOUNTE. Just pending.

Senator UDALL. Okay. How many applications relate to off-reservation acquisitions?

Mr. LACOUNTE. A little over 200.

Senator UDALL. Two hundred out of that 1,300. How many of those applications are for gaming?

Mr. LACOUNTE. My understanding is there are 21.

Senator UDALL. Twenty-one out of the 1,300. Since this Administration began, how many acres of land has the department acquired under its IRA authority to take land into trust?

Mr. LACOUNTE. Just under 16,000.

Senator UDALL. Sixteen hundred?

Mr. LACOUNTE. Sixteen thousand.

Senator UDALL. Sixteen thousand acres that you have taken into trust in the 14, 15 months?

Mr. LACOUNTE. Correct.

Senator UDALL. To the two chairs, your testimony highlights why the land-into-trust process is so important for tribes, particularly those with little or no land base. Could you please elaborate on your testimony and explain why a permanent homeland is so important to your tribe? Why don't we reverse the order and have Chairwoman Mejia begin there?

Ms. MEJIA. Having a permanent homeland for our people provides a continuity for the tribal government and for taking care of our members as time goes on. As you know, Indian people think seven generations ahead. So having this land enables the tribal government to plan for the future of its members.

Senator UDALL. Thank you. Chairman Kahn?

Mr. KAHN. I certainly agree with Chairwoman Mejia. But tribes, we look at land in a way that is perpetual. When we set foot on land and inhabit, we look into the future, hundreds and hundreds of years into the future. So again, it is vital for self-determination

and for the strength of our customs and traditions through many, many generations. It is about planning for all eternity.

Senator UDALL. Thank you very much for those answers. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. I would ask Mr. Healy and Mr. Krauch, are there any provisions that they could include in the memorandum that would garner support for putting land into trust?

Mr. HEALY. If I may start, Mr. Chairman. Two points on that. First of all, I very much appreciate the Chair's offer to modify the MOU with the county to permanently ban gaming on any future lands, as well as this property taken into trust in Sonoma County, if that is what I understood the offer to be. I would suggest that that should not be accommodated through modifying the MOA with the county, because Section 5 of the current bill has this rather strange set of compromise provisions on restrictions on gaming for limited periods of time.

And I really think that Congress should say what it means and use precise language in these bills, because this would essentially be an override of the language in Section 5 of the current bill. I think Section 5 should actually be modified to include that proposal. Because that would be permanent until Congress changes it. But the MOA between the county and the tribe could be change by those parties at any point in the future.

So I think that would require an amendment to the current bill. I assume it would mean it would have to go back to the House for concurrence and amendments. But that would memorialize what the offer is on the table now in a very permanent way.

The second thing I would say, this isn't just a problem with the Federal process, but the process that was followed locally lacked transparency as well. What the public understood to be coming forward initially for a long time until the last moment was essentially just a housing, a land-into-trust application, which I think the community would largely be fine with. It is this large commercial development that hasn't had an environmental analysis that is causing a lot of the angst, the 200,000 case winery, the 200-room resort, which the environmental assessment has not been done. It has been promised for the future. But it seems to be putting the cart in front of the horse to be approving the land into trust without that work having been done. I will stop at that point.

The CHAIRMAN. To the extent that the tribe is likely or willing to enter into that discussion, it also would probably mean on your part, or the community's part, that they would then have to get to the point of agreement. In other words, they don't have too much incentive to make those adjustments if you are still going to impose the legislation, do you follow me? So it seems to me if you offer those as potential solutions, then it would also require your approval, that if there is some accommodation that is agreed to.

Mr. HEALY. I think there is a willingness to have that kind of a conversation. The problem is that this MOA with the county was kind of cut between the parties without any public input. And now it is locked in and there is no ability to revisit those issues. If this legislation passes, there would be no further opportunity. But if this is put on hold, and people are told to reopen it and talk about

it, then that is a conversation that can certainly take place. I would certainly be willing to be part of it.

The CHAIRMAN. I am just suggesting that you have that time now to have that conversation, should you desire to have that conversation.

Mr. HEALY. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Krauch?

Mr. KRAUCH. Yes. We obviously understand that the tribal community has the right of self-determination to foster economic development, and the Chumash have done an outstanding job with their economic development. But what they do need is the housing. We have proposed an alternative site that is closer to the reservation, bounded by better roads, better ingress and egress and can accommodate the needs of 143 one-acre lots and a 30-acre community center.

If that is not possible, what we would like to see is an agreement that extends beyond 20 years, because after 20 years the tribe has the right to develop the property in any way they see fit. We would also like further clarification and better legalese on the water rights. We understand the Intercourse Act is probably not an issue here. Our concern is with winters.

Third party enforcement, we are a little bit concerned about the county making any enforcement, since they have a lot of deficits that are being faced as a result of the floods and the fire. The casino expansion probably concerns the community to a great degree. They recently expanded it with a 12-story hotel. It has resulted in increased traffic and other issues, burdening the community, that we don't want to see increase. So we would hope that there would not be another casino or an expansion of the existing casino which they have the right to do under the California compact.

The CHAIRMAN. Chairman Kahn, any thoughts in regard to those comments?

Mr. KAHN. I certainly appreciate the alternative land bases, but we purchased the property, Camp 4, in 2010. Started negotiating with the county in 2011. The property Mr. Krauch refers to as an alternate was purchased by the tribe in 2015. So we are already four years into the process.

In addition, the tribe tried to purchase two contiguous parcels for purposes of housing. Some of the same members of the Coalition and some of the opponents actually purchased one of the parcels, rather than the tribe being able to purchase it, so we could not develop it, or take it into trust, and convinced other neighboring landowners not to sell to the tribe.

So Camp 4 was the first available parcel within a reasonable amount of distance within our aboriginal territory that made sense for housing. And it is right next to a housing development that I believe Mr. Krauch actually, certainly resides in as well.

And the other question, I think you had a two-part question.

The CHAIRMAN. Well, it is just that in both cases, in regard to both pieces of legislation, you have some period of time you are to have a dialogue. Both those have passed the House, true?

Mr. KAHN. Yes, sir.

The CHAIRMAN. So if you are going to have your dialogue, now is your time. You have some period of time to get that done. So I

am just encouraging parties on both sides to have that dialogue. Clearly, you have been doing some things, which I commend you for. I am just trying to find out if there is some way to reach resolution here, or it will be done through the legislation. We have yet to predict that outcome. Both bills did pass the House, which I would think would encourage both of you gentlemen to find some common ground.

On the flip side, in the Senate, there is a lot of procedural rules, which means you have some incentive as well, both chairmen. So I am just encouraging you to have that dialogue.

And then just a couple questions for Mr. LaCounte before I turn to the Vice Chairman to see if he has any final questions. What is the average time it takes for land into trust under Part 151? How long does that process typically take?

Mr. LACOUNTE. A very long time.

The CHAIRMAN. It does, right.

Mr. LACOUNTE. The quickest I have ever seen one done was six months, and I used to study this stuff. And that was very fast for this process.

The CHAIRMAN. Typically, we are talking years?

Mr. LACOUNTE. Correct.

The CHAIRMAN. In some cases, quite a few years.

Mr. LACOUNTE. Quite a few years, yes.

The CHAIRMAN. And then I have one question for you, Mr. LaCounte, on an unrelated subject, so I had better turn to my Vice Chair to see if he has any other questions. All right.

As you know, in the recent government funding bill, we worked to include Department of Interior's Facilities Replacement and New Construction Program for Indian Tribal Justice Facilities. Will the BIA abide by the intention of this program and allocate sufficient funds to tribes to reconstruct and replace facilities?

Mr. LACOUNTE. Yes, sir.

The CHAIRMAN. As the Committee report states, the BIA had compiled a list of facilities in need of replacement, and Congress directed them to use that list when allocating funds for this program. In allocating these new funds, will BIA use the current list of facilities in need of replacement as directed by Congress?

Mr. LACOUNTE. Yes.

The CHAIRMAN. Will tribes that have been waiting the longest and have shovel-ready projects be given priority?

Mr. LACOUNTE. I don't have the answer to that. I tried to find the answer to that question, but no one responded to me. But I will certainly get back to you with an answer to that question.

The CHAIRMAN. Thank you, Mr. LaCounte. I appreciate it very much.

Vice Chairman?

Senator UDALL. I am good.

The CHAIRMAN. Okay. With that, I would like to thank the witnesses. Members may submit follow-up questions, so you may get some follow-up questions. We would request that that be done within two weeks. So for two weeks, you may get some written questions. So again, thanks to all of you for your time today. We appreciate it.

With that, the hearing is adjourned.

[Whereupon, at 3:29 p.m., the hearing was concluded.]

A P P E N D I X

PREPARED STATEMENT OF PREPARED STATEMENT HON. JAMES GORE, CHAIRPERSON, SONOMA COUNTY BOARD OF SUPERVISORS

On behalf of the Sonoma County Board of Supervisors I would like to thank Chairman Hoeven, Vice Chairman Udall, and members of the Committee on Indian Affairs for the opportunity to submit this testimony in support of H.R. 597—the Lytton Rancheria Homelands Act of 2017. My name is James Gore, and I serve as the Chairperson of the Sonoma County Board of Supervisors and in this position I submit this letter on behalf of the entire Board. This bill, in many ways, exemplifies the type of relationships that tribes and local governments must pursue given a flawed fee-to-trust process which is characterized by both a lack of transparency from the Bureau of Indian Affairs on roles and authorities, and a lack of objective criteria for decisions. Ironically, the failures in the existing process serve to more often pit local governments and tribes against each other rather than facilitate identification of mutual interests.

As you know, the California State Association of Counties (CSAC), of which Sonoma County is a member, has been very vocal about reform of the fee-to-trust process. Cooperation between local jurisdictions and tribal governments goes a long way towards the goal of overcoming the impediments of the current process. One concern often voiced is that impacts related to the acquisition be fully mitigated—both for the short and long term. The best way to demonstrate that the off-reservation impacts of a project have been sufficiently addressed is through a voluntary intergovernmental agreement between the tribe and local jurisdictions. Sonoma County believes that the Sonoma County—Lytton Rancheria Memorandum of Agreement (MOA) is an example of the type of intergovernmental understandings that must be reached on fee-to-trust projects to ensure that off-reservation impacts are mitigated.

Sonoma County is home to five federally-recognized tribes, two of which operate casinos. While the County opposes gaming, we nonetheless have intergovernmental agreements with three of the five tribes, including the two that operate gambling facilities. We are also in conversation with the other two tribes to work towards memoranda of agreement with respect to pending fee-to-trust requests. We commend the leadership of the Lytton Rancheria of California for engaging in a fee-to-trust consultation process where we could work together on a government-to-government basis to ensure that the Tribe's objectives were met and that the off-reservation impacts were mitigated through a judicially enforceable agreement.

Memorandum of Agreement (MOA)

The MOA is the product of hard work among the parties that started about 10 years ago with the County working with the Lytton Tribe to address what the County saw as inadequacies in the Environmental Assessment of the Tribe's initial trust proposal and community concerns regarding gaming. The Tribe and County worked together to accurately identify the off-reservation impacts and, as the project changed over time, to build a framework that met the parties' respective interests. We believe the MOA, which is approved by both the Tribe and County and which is supported in the legislation, is now a model for cooperation on future development on tribal lands.

From the County's perspective, H.R. 597 has two critical components. First, the legislation ensures that, in perpetuity, no gaming will be conducted on the lands taken into trust. While the Lytton Tribe did not have a stated intention to acquire the land for gaming purposes, the legislation helps address community and government concern on the issue for the long term. Second, the legislation recognizes and protects the MOA from any potential interference from the Department of the Interior. While the Tribe entered into the MOA as an exercise of its sovereignty, under 25 U.S.C. Section 81, the Department of the Interior reserves the ability to substitute its judgment for the Tribe's and, historically, has not played an active role

in facilitating these types of agreements. The legislation helps ensure that the mutually beneficial MOA will not be disturbed.

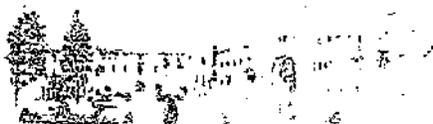
The MOA specifically addresses potential off-reservation impacts in several important respects by: (1) specifying current development limits and providing for tailored mitigation; (2) setting land use parameters and providing for environmental review of future tribal projects (and a conflict resolution process if there is disagreement over necessary mitigation); (3) prohibiting gaming (which provision is enhanced by the legislative ban); (4) ensuring that applicable building and fire code standards are met; and (5) making the MOA and compliance with prior NEPA identified mitigation measures judicially enforceable. One of the unique provisions of the MOA addresses changes in use. As stated above, a review process was established in the MOA by creating some broad parameters for future use and building in a voluntary, tribal driven, environmental review process, the focus of which would be to determine any off-reservation impacts of a proposed project. The MOA then puts in place a negotiation and binding dispute resolution process if the parties are not able to agree on appropriate mitigation. This approach respects sovereignty while also ensuring that off-reservation impacts are adequately addressed in the County's view.

The County has heard some concerns that once the prohibition on gaming in the MOA expires, the Tribe would be able to establish gaming facilities anywhere in the County without being subject to IGRA. The County believes this a strained reading of the language in the MOA and that the concerns are unfounded. However, the County requests clarifying language in the conference report to make clear that this is not the intent of the legislation.

Conclusion

As part of the 1991 judicial settlement agreement which restored the Lytton Tribe, the County committed to assist the Tribe in finding suitable housing and economic development opportunities. The passage of H.R. 597 and the resulting implementation of the MOA would deliver on that commitment. Enactment of H.R. 597 will reestablish an historic homeland for the Tribe in Sonoma County while setting a course for a constructive intergovernmental relationship and addressing community concerns regarding gaming.

Thank you for the opportunity to share these views.



BOARD OF
SUPERVISORS

COUNTY OF SANTA BARBARA

April 17, 2018

Chairman John Heaven
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510

Honorable Senator Hoeven:

On behalf of the Board of Supervisors of Santa Barbara County, I write to express the County's continued support for the passage of H.R. 1491, the Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017. As indicated in the County's letter to Congressman Kevin McCarthy (attached), Board entered into a long term Memorandum of Agreement (MOA) on October 31, 2017, with the Santa Ynez Band of Chumash Indians (the Tribe) regarding the 1427 acres of land in Santa Barbara County known as Camp 4.

As part of the MOA between the County and the Tribe, the County has dismissed its litigation opposing the acquisition of Camp 4 into trust for the benefit of the Tribe and now supports the Tribe's pursuit of tribal housing and facilities on the Camp 4 property as outlined in Alternative B of the Final Environmental Assessment.

In the County's November 1, 2017 letter to Congressman McCarthy, the Tribe and the County jointly requested that H.R. 1491 be amended to reference the local MOA between the Tribe and the County and to reference the Secretary of Interior's approval of this MOA. These suggested amendments are now included in *Section 7 - Findings* in the most recent version of H.R. 1491.

On March 22, 2018, at the request of Senator Dianne Feinstein's office, the Congressional Research Service issued a memo asserting the prohibition of gambling on Camp 4 is enforceable by the United States under 18 U.S.C. §1866 and that the waiver of the Tribe's sovereign immunity would likely be enforceable per the conditions detailed in the MOA.

The County fully supports the passage of H.R. 1491 through the Senate Committee on Indian Affairs and supports the timely enactment of this legislation.

Sincerely,

Das Williams
Chair, Santa Barbara County Board of Supervisors

Congress of the United States
House of Representatives
Washington, DC 20515
April 23, 2018

The Honorable John Hoeven, Chairman
Committee on Indian Affairs
U.S. Senate
Washington, D.C. 20515-6450

Dear Chairman Hoeven and Committee Members,

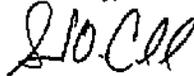
As the Member of Congress representing the "Camp 4" property addressed in H.R. 1491, which would reaffirm the action of the Secretary of the Interior to take land into trust for the Santa Ynez Band of Chumash Mission Indians, I would like to take this opportunity to express my support for the amended version of the bill which was passed by the House of Representatives in November 2017 and will be under consideration by your Committee at your April 25th hearing.

I have a unique perspective on this issue, having previously served as a Santa Barbara County Supervisor for twelve years. During my tenure, the issue of Camp 4 was deliberated before the Board of Supervisors on several occasions. During those discussions, I was one of the first elected officials to consistently call for direct government-to-government discussions between the Chumash Tribe and the County. I am pleased to see that those ensuing negotiations resulted in an agreement that addresses the Tribe's well documented need for tribal housing while providing for important mitigations to address potential impacts on public views, traffic, water resources, local tax revenues, and the natural environment.

I believe that the locally negotiated agreement concerning Camp 4 between the Tribe and the County, which is incorporated in the amended version of H.R. 1491, is in the best interest of my constituents and is an important step toward establishing a long-term collaborative relationship between all parties involved.

I thank you for your consideration and respectfully request that you support H.R.1491 as approved by the House.

Sincerely,



SALUD O. CARBAJAL

DOUG LAMALFA
 For District of California

Congress of the United States
House of Representatives
 Washington, DC 20515-0501

April 24, 2018

Chairman John Hoeven
 Senate Committee on Indian Affairs
 838 Hart Senate Office Building
 Washington, DC 20510

Dear Senator Hoeven,

I write to you to express my support for the timely passage of H.R. 1491, the Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017. As you know, the legislation was favorably reported out of the House Natural Resources Committee on a bipartisan basis in September of last year and was passed by the U.S. House of Representatives by voice vote on November 28, 2017.

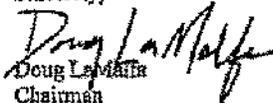
The Santa Ynez Band of Chumash Indians (the Tribe) and Santa Barbara County (the County) have worked tirelessly to reach a favorable agreement on 1427 acres of land known as Camp 4. On October 31, 2017, the Tribe and the County entered into a long term Memorandum of Agreement (MOA). As part of the MOA, the County has dismissed its litigation opposing the acquisition of Camp 4 into trust for the benefit of the Tribe and has indicated their support of the Tribe's pursuit of providing adequate housing and facilities for their membership, as outlined in the Final Environmental Assessment.

In advance of House passage of H.R. 1491, the Tribe and the County jointly requested that the bill be amended to reference the MOA and to reference the Secretary of Interior's approval of the MOA. These suggested amendments have been included in the most recent version of the H.R. 1491.

The bill, by explicit design, contains language that prohibits gambling on Camp 4; language that the Congressional Research Service has verified in its March 22, 2018 memo is enforceable by the United States under 18 U.S.C. §1966.

The County and the Tribe have worked together to ensure the legislation is one that both can fully support and earn the support of Members of Congress for swift passage into law. The legislation has my unequivocal support; I encourage the Senate Committee to move quickly to approve the measure.

Sincerely,


 Doug Lamalfa
 Chairman

Subcommittee on Indian, Insular and Alaska Native Affairs
 House Natural Resources Committee

SUPPLEMENTAL INFORMATION SUBMITTED BY THE SANTA YNEZ BAND OF CHUMASH
 INDIANS

Chairman Kahn, testimony received by the Committee raises several questions about utilization of the Camp 4 property and the Agreement between the County and the Tribe. Can you address the following questions that were raised?

1) The Camp 4 site is not the best site for this housing project. The nearby, 369 acre parcel would be a "superior alternative" rather than the Camp 4 property. Do you agree and why not proceed with development on the 369 acre parcel?

Answer. This assertion is inaccurate for a variety of reasons. The Tribe has pointed out that this parcel has been designated by the County of Santa Barbara as a

Special Problem Overlay area. Special Problem Overlay (SPO) areas are so designated by the County of Santa Barbara Board of Supervisors' resolution. The SPO areas are proposed by County Public Works to identify properties that may be inappropriate for development. SPO areas have been identified as having one or more physical or geological barriers to development, such as high groundwater, steep slopes, flood areas, limited access, unconsolidated or expansive soils, or other geological problems in the County otherwise subject to development.

For landowners that apply for development in a Special Problem Overlay area, additional permit processing steps are required in what is already a very difficult and expensive permit process in Santa Barbara County. These permits must be reviewed by the Special Problems Committee (SPC) which consists of all the County departments involved in permit approvals (Fire, EHS, Building & Safety, Flood Control, Roads, Surveyor). The SPC scrutinizes these development applications by requiring detailed engineering studies. Without approval from the SPC, development projects cannot move through the normal permit process. These additional upfront costs and mandatory SPC committee approval process dissuades landowners from seeking substantial development for property under a Special Problem Overlay.

The parcel offered up by Mr. Krauch was first designated as a SPA in 1979. We do know that there has never been a request for review of this designation under the SPC process for this 379 acre parcel. We have attached the original Resolution by the County creating the SPA process with the field notes by the County recommending the designation for the 369 acre parcel.

Finally we point out that attempting to build 143 home sites on a 369 acre parcel would dramatically alter the density patterns that we have been able to ensure with the Camp 4 property. An increase in the density that would be required for the 369 acre parcel is totally inconsistent with the density patterns on all neighboring housing tracts.

2. The Agreement with the County referenced in HR 1491 expires in 2040. Why not extend the Agreement to provide greater certainty to interested parties past 2040?

Answer. This Agreement is consistent with the term of the first Cooperative Agreement proposed by the Tribe in 2010 with a ten (10) year term until the expiration of its first 1999 compact which expired in 2020. The new Memorandum of Agreement with the County has a term of more than twice as long and its over twenty (20) year term now expires in 2040 which is the expiration date of the Tribe's new Compact.

A core element of the Agreement is the funding that the Tribe has agreed to pay to the County during the term of this Agreement to address services needed by these residents. The commitment of the Tribe to this payment level must be dictated by the Tribe's ability to realize revenues to meet the requirements of the Agreement. The source of these funds is, of course, the revenues realized by Tribal gaming, which is controlled by the terms of the Compact with the State. The Tribe's compact with the State runs through 2040 at which time a renewal of the Compact and a renewal of the Agreement can be addressed concurrently. The Tribe's commitment to enter into an obligation to pay for services in the future runs contrary to every other government that cannot obligate its citizens to future appropriated funds requirement. This prohibition is clearly outlined under Federal Government regulations.

In addition, planning restrictions and controls extended beyond 20 years is contrary to the planning guidelines for any other level of government. Most governments have 20 year planning horizons and such a timeframe is essentially reflected in this Agreement.

3. There is concern that HR 1491 would allow the Tribe to market off reservation water sales. Do you feel that there are adequate protections in the Agreement to prevent exporting water from the Camp 4 parcels?

Answer. The existing Chumash economic development and housing is actually water-neutral, thanks to tertiary treatment and recycling which allows reuse of water for a wide array of purposes. The passage of HR 1491 will not allow the Tribe to export water from the Camp 4 trust lands and the Tribe testified under oath during the Committee hearing that it has no intention of doing so. As Mr. Krauch acknowledged in his testimony to the Committee, the Non-Intercourse Act would prevent the Tribe from exporting water from the reservation. Further, his concern that the Tribe could export water under the Winters Doctrine is a misplaced concern.

The Winters Doctrine recognizes a reserved water right appurtenant to the land reserved, (here the Camp 4 trust lands), to be used on that land. Because the reserved water rights are appurtenant to the land, that water cannot severed and exported for other uses or purposes. In addition, reserved rights are measured as of

the date the federal government accepts the land into trust which in the case of Camp 4 was January 20, 2017, which makes them junior to every other water right in Santa Ynez Valley.

4. While H.R. 1491 explicitly prohibits gaming on Camp 4, testimony was provided that the Tribe may expand its gaming by accessing the existing Tribal home sites and developing there. Are these concerns valid?

Answer. The erroneous argument that the Tribe would convert these homes, on the existing reservation, to any type of a commercial enterprise fails to acknowledge the responsibility that the Tribal government has to its citizens. Ownership of the existing homes on the Reservation does not terminate with the Camp 4 home sites. Camp 4 was purchased in 2010 by a vote of every tribal member over 18 years of age with a promise that every tribal member alive on that date would get a home site on Camp 4 that could be inherited by their children. The Tribe cannot trade Camp 4 homes for those on the existing reservation. The Tribal Government has no desire or ability to condemn existing housing on the Reservation for any reason including the future casino alleged by Mr. Krauch and his group. The same people opposed for 14 years a tribal museum project across the street from the existing casino again making the unsubstantiated contention that the Tribe also intended to build a second casino across the street from its existing one.

5. The Agreement allows only the County to bring suits against the Tribe for failure to adhere to the tenants of the Agreement. Why not allow any citizen to bring suit for failure to comply with the Agreement?

Answer. The Agreement between two sovereign governments elevates these concerns to a public and transparent level. Violations by either party of any provision of the Agreement can still be appealed by individual citizens to their locally elected government officials. This was the process that Mr. Krauch and his coalition used with the County until the larger citizenry of the County encouraged the County to work with the Tribe on an Agreement. This is the essence of representational government. The Tribe's commitment to this Agreement is so strong that it has agreed to a waiver of its sovereign immunity for any violations of or failure to adhere to, the terms of this Agreement.

Subsequent Question Pertaining to Existing Easements on Camp 4

After the hearing on H.R. 1491, we are aware that the Senate Indian Affairs Committee also received correspondence dealing with a question of easements on the Camp 4 property. The correspondence asserts that there are existing easements on the Camp 4 property that have not been properly recognized or recorded.

In fact, there are two easement issues that need to be clarified and are addressed by the incorporation of the Environmental Assessment (EA) into the Memorandum of Agreement (MOU) between the County and the Tribe. The first is a road easement that runs North-South on the Western edge of the Camp 4 property but not onto the property itself. This easement would allow a land owner (i.e., Ms. Shepard) with property adjacent to the Camp 4 property to enjoy the opportunity to access Baseline Avenue and have a second access point to her property which is West and adjacent to the Camp 4 parcel.

The EA recognizes all easements of record and explains that they are not affected by the fee to trust transfer. In addition, in response to a comment letter by the landowner referenced above, the EA further agrees to recognize all access easements and specifically includes the Shepard easement. That EA/environmental document, recognizing this easement, was included and adopted by the County as part of the MOU and therefore is enforceable against the Tribe.

The second issue with the easement is actually an issue between the County and the Tribe regarding responsibility for maintenance of the internal roads running through the Camp 4 property. These internal roads represent almost 21 acres of impacted land within Camp 4. While there may be some issue as to whether these are County roads or Tribal roads, the Tribe has decided to take this issue off the table by assuming the responsibility of maintaining the roads through their property. There are no private property interests affiliated with this easement.

RESOLUTION NO. 79-302—RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

A RESOLUTION IMPLEMENTING SUBSECTION (B) OF SECTION 10-21 (MODIFICATIONS) OF THE SANTA BARBARA COUNTY CODE BY DESIGNATING AN OLD "TOWNLOT" SUBDIVISION NEAR THE TOWN OF SANTA YNEZ IN THE COUNTY OF SANTA BARBARA AS HAVING PRESENT OR ANTICIPATED FLOODING, DRAINAGE, ROAD ACCESS, DOMESTIC WATER, WASTEWATER DISPOSAL AND LOCATION PROBLEMS, AND HEREBY DELINEATING THE SAME AS A "SPECIAL PROBLEMS AREA".

WITH REFERENCE TO THE FOLLOWING:

A. The Board of Supervisors of the County of Santa Barbara has amended Subsection (b) of Section 10-21 (Modifications) of the Santa Barbara County Code which amends Subsection (a) of section 302 of Page 30 of the Uniform Building Coder 1976 Edition, to provide for designating certain areas as "Special Problem Areas" on maps to be kept by the Development Division of the County Department of Public works, which areas have present or anticipated flooding, drainage, grading, access, road width, sewage disposal, water supply location or elevation problems.

B. Grading riders shall not be issued for requested building permits in such "Special Problem Areas" unless and until plans and specifications for the proposed buildings or structures have been reviewed by the Santa Barbara County "Special Problems Committee" and any and all reasonable and necessary conditions have been imposed as conditions of approval of said building permit application, as provided in said amended Section 302.

NOW, THEREFORE, IT IS RESOLVED as follows:

1. The unincorporated area near the township of Santa Ynez, of the County of Santa Barbara as delineated on a map, a copy of which is attached to this Resolution¹ and by this reference made a part hereof, is an area having present or anticipated flooding, drainage, road width, domestic water, and wastewater disposal and location as to fire hazard problems and is hereby delineated as a "Special Problems Area" all as provided in and for the purposes of Subsection (b) of Section 10-21 (Modifications) of the Santa Barbara County Code.

2. The said attached map of the said "Special Problems Area" is a true and correct copy thereof and is hereby ordered to be kept by the Development Division of the County Department of Public Works to be used as provided in said Subsection (b) of said Section 10-21 of the Santa Barbara County Code.

3. Copies of this Resolution shall be forwarded by the Clerk of the Board of Supervisors to the Director of Public Works; the Flood Control Engineer; the Transportation Director and Road Commissioner; the Director of County Health Services, the County Fire Department, and the County Counsel.

PASSED and ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 21st day of May, 1979.

○

¹The map referred to has been retained in the Committee files.