

LYTTON RANCHERIA HOMELANDS ACT OF 2015

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JUNE 21, 2016.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 2538]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2538) to take lands in Sonoma County, California, into trust as part of the reservation of the Lytton Rancheria of California, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lytton Rancheria Homelands Act of 2015”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Lytton Rancheria of California is a federally recognized Indian tribe that lost its homeland after it was unjustly and unlawfully terminated in 1958. The Tribe was restored to Federal recognition in 1991, but the conditions of its restoration have prevented it from regaining a homeland on its original lands.

(2) Congress needs to take action to reverse historic injustices that befell the Tribe and have prevented it from regaining a viable homeland for its people.

(3) Prior to European contact there were as many as 350,000 Indians living in what is now the State of California. By the turn of the 19th century, that number had been reduced to approximately 15,000 individuals, many of them homeless and living in scattered bands and communities.

(4) The Lytton Rancheria’s original homeland was purchased by the United States in 1926 pursuant to congressional authority designed to remedy the unique tragedy that befell the Indians of California and provide them with reservations called Rancherias to be held in trust by the United States.

(5) After the Lytton Rancheria lands were purchased by the United States, the Tribe settled on the land and sustained itself for several decades by farming and ranching.

(6) By the mid-1950s, Federal Indian policy had shifted back towards a policy of terminating Indian tribes. In 1958, Congress enacted the Rancheria Act of 1958 (72 Stat. 619), which slated 41 Rancherias in California, including the Lytton Rancheria, for termination after certain conditions were met.

(7) On August 1, 1961, the Lytton Rancheria was terminated by the Federal Government. This termination was illegal because the conditions for termination under the Rancheria Act had never been met. After termination was implemented, the Tribe lost its lands and was left without any means of supporting itself.

(8) In 1987, the Tribe joined three other tribes in a lawsuit against the United States challenging the illegal termination of their Rancherias. A Stipulated Judgment in the case, *Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria v. United States*, No. C-86-3660 (N.D.Cal. March 22, 1991), restored the Lytton Rancheria to its status as a federally recognized Indian tribe.

(9) The Stipulated Judgment agreed that the Lytton Rancheria would have the “individual and collective status and rights” which it had prior to its termination and expressly contemplated the acquisition of trust lands for the Lytton Rancheria.

(10) The Stipulated Judgment contains provisions, included at the request of the local county governments and neighboring landowners, that prohibit the Lytton Rancheria from exercising its full Federal rights on its original homeland in the Alexander Valley.

(11) In 2000, approximately 9.5 acres of land in San Pablo, California, was placed in trust status for the Lytton Rancheria for economic development purposes.

(12) The Tribe has since acquired, from willing sellers at fair market value, property in Sonoma County near the Tribe’s historic Rancheria. This property, which the Tribe holds in fee status, is suitable for a new homeland for the Tribe.

(13) On a portion of the land to be taken into trust, which portion totals approximately 124.12 acres, the Tribe plans to build housing for its members and governmental and community facilities.

(14) A portion of the land to be taken into trust is being used for viticulture, and the Tribe intends to develop more of the lands to be taken into trust for viticulture. The Tribe’s investment in the ongoing viticulture operation has reinvigorated the vineyards, which are producing high-quality wines. The Tribe is operating its vineyards on a sustainable basis and is working toward certification of sustainability.

(15) No gaming shall be conducted on the lands to be taken into trust by this Act.

(16) No gaming shall be conducted on any lands taken into trust on behalf of the Tribe in Sonoma County after the date of the enactment of this Act north of a line that runs in a cardinal east and west direction from the point where Highway Route 12 crosses Highway 101 as they are physically on the ground and used for transportation on January 1, 2016, and extending to the furthest extent of Sonoma County.

(17) Any agreement, now or in the future, regarding gaming restrictions between Sonoma County and the Tribe will be effective without further review by the Bureau of Indian Affairs.

(18) By directing that these lands be taken into trust, the United States will ensure that the Lytton Rancheria will finally have a permanently protected homeland on which they can once again live communally and plan for future generations. This action is necessary to fully restore the Tribe to the status it had before it was wrongfully terminated in 1961.

(19) The Tribe and County of Sonoma have entered into a Memorandum of Agreement in which the County agrees to the lands in the County being taken into trust for the benefit of the Tribe in consideration for commitments made by the Tribe.

SEC. 3. DEFINITIONS.

For the purpose of this Act, the following definitions apply:

- (1) COUNTY.—The term “County” means Sonoma County, California.
- (2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (3) TRIBE.—The term “Tribe” means the Lytton Rancheria of California.

SEC. 4. LANDS TO BE TAKEN INTO TRUST.

(a) IN GENERAL.—The land owned by the Tribe and generally depicted on the map titled “Lytton Fee Owned Property to be Taken into Trust” and dated May 1, 2015, is hereby taken into trust for the benefit of the Tribe, subject to valid existing

rights, contracts, and management agreements related to easements and rights-of-way.

(b) **LANDS TO BE MADE PART OF THE RESERVATION.**—Lands taken into trust under subsection (a) shall be part of the Tribe’s reservation and shall be administered in accordance with the laws and regulations generally applicable to property held in trust by the United States for an Indian tribe.

SEC. 5. GAMING.

(a) **LANDS TAKEN INTO TRUST UNDER THIS ACT.**—Lands taken into trust for the benefit of the Tribe under section 4 shall not be eligible for gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(b) **OTHER LANDS TAKEN INTO TRUST.**—

(1) **TIME-LIMITED PROHIBITION.**—Lands taken into trust for the benefit of the Tribe in Sonoma County after the date of the enactment of this Act shall not be eligible for gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2710 et seq.) until after March 15, 2037.

(2) **PERMANENT PROHIBITION.**—Notwithstanding paragraph (1), lands located north of a line that runs in a cardinal east and west direction and is defined by California State Highway Route 12 as it crosses through Sonoma County at Highway 101 as they are physically on the ground and used for transportation on January 1, 2016, and extending to the furthest extent of Sonoma County shall not be eligible for gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2710 et seq.).

SEC. 6. APPLICABILITY OF CERTAIN LAW.

Notwithstanding any other provision of law, the Memorandum of Agreement entered into by the Tribe and the County concerning taking land in the County into trust for the benefit of the Tribe, which was approved by the County Board of Supervisors on March 10, 2015, and any addenda and supplement thereto, is not subject to review or approval of the Secretary in order to be effective, including review or approval under section 2103 of the Revised Statutes (25 U.S.C. 81).

PURPOSE OF THE BILL

The purpose of H.R. 2538 is to take lands in Sonoma County, California, into trust as part of the reservation of the Lytton Rancheria of California.

BACKGROUND AND NEED FOR LEGISLATION

The Lytton Rancheria is a tribe of approximately 270 enrolled members near the central California coast, with the tribal headquarters located in Santa Rosa, California. The original 50-acre Rancheria land, located approximately 20 miles north of Santa Rosa, was purchased and set aside by the United States in 1926 pursuant to the Landless and Homeless Indian Act. From the late 1930s to the late 1950s, the Rancheria was composed of two families and their descendants who moved to the 50-acre tract north of Healdsburg, California. In 1958, federal supervision of the Rancheria was terminated by an Act of Congress (Public Law 85–671, 72 Stat. 619). This occurred in the context of the “Termination Era” when Congress determined to end its policy of recognizing tribes, holding their lands in federal trust, and supervising their efforts. Subsequently, title to the Rancheria land was transferred to individual members, who subsequently sold the land to non-Indians.

In 1987, aided by the California Indian Legal Services, the Lytton Rancheria joined as plaintiffs in a lawsuit against the United States challenging the Congressional termination. In 1991, the U.S. District Court for Northern California approved a settlement negotiated between the federal government and a number of terminated Rancherias under which the government would recog-

nize the Rancherias as tribes.¹ The settlement did not restore the original Lytton Rancheria property in Healdsburg, California, to the Rancheria or otherwise provide any land. The court did, however, recognize that the federal government and the Rancheria agreed that future lands could be placed in federal trust for the Rancheria within Sonoma County.² At the insistence of Sonoma County, restrictions were placed on land acquired by the Lytton Rancheria in Alexander Valley and within the original Rancheria boundaries. These restrictions included a use requirement consistent with the Sonoma County General Plan within the original Rancheria boundary.³ Additionally, gambling was expressly prohibited on lands within the exterior boundaries of the original Rancheria lands in Alexander Valley.⁴

In the final days of the 106th Congress, the Omnibus Indian Advancement Act, was enacted (Public Law 106-568). One provision in the Act required the Secretary of the Interior to acquire title to a 9.5 acre parcel of land housing the Casino San Pablo cardroom, located approximately 60 miles south of the Lytton Rancheria tribal headquarters, in San Pablo (Contra Costa County), California, in trust for the benefit of the Lytton Rancheria. The Act further provided that “[s]uch land shall be deemed to have been held in trust and part of the reservation of the Rancheria prior to October 17, 1988.”⁵

The effect of backdating the trust acquisition was to grant the Tribe the right to operate a casino pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701). The Tribe converted the Casino San Pablo cardroom into a class II casino. In 2004, the Tribe negotiated a class III gaming compact with the Governor of California; however the California Legislature never ratified the compact due to strong local concerns. In 2009, with the strong support of local officials, a bill to place restrictions on the San Pablo casino passed the U.S. Senate (S. 338, 111th Congress).

In recent years, the Tribe has used revenues from its casino to purchase a number of parcels adjacent to the city limits of the town of Windsor, California, in Sonoma County. The town of Windsor is approximately 10 miles from the tribal headquarters in Santa Rosa, California.

In 2009, the Tribe applied to the Department of the Interior to place title to approximately 127 acres of lands acquired in this area in trust. The application is still pending with the Department of the Interior. The Tribe has testified that it intends to use a portion of the lands for tribal housing, while the rest would support a diverse range of economic development including plans for a future resort and winery. Land held in trust for a tribe is not subject to local and state taxation and regulation, including zoning laws.

H.R. 2538 would place approximately 511 acres of non-contiguous parcels of land owned by the Rancheria in trust, subject to valid and existing rights, contracts, and management agreements. Under the bill, gaming under the Indian Gaming Regulatory Act would be prohibited on these lands.

¹ *Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria v. United States*, No. C-86-3660 (N.D. Cal. 1991), at 3.

² *Id.* at 4.

³ *Id.* at 5 and Exhibit B.

⁴ *Id.* at 5 and Exhibit C.

⁵ *Id.* at Section 819.

Additionally, the Memorandum of Agreement (MOA) dated March 10, 2015, entered into between the Tribe and Sonoma County concerning the taking of land into trust, would not be subject to review or approval by the Secretary of the Interior. The MOA between the Tribe and Sonoma County outlines commitments and procedures to mitigate impacts of economic development activities by the Tribe. Activities contemplated include a residential development project of 147 residential units and a winery and/or resort. Also outlined in the document is an agreement that the Tribe will pay \$6.1 million for one-time impacts on the County and pay 30 percent of the property taxes on the lands thereafter. The County additionally agrees to not oppose or issue negative comments on the Tribe's efforts to seek additional trust lands in the future, through the administrative or legislative process. The MOA is binding for 22 years.

Lastly, the Natural Resources Committee has received a relatively large number of communications from the residents of Windsor, California, in opposition to the bill.⁶

COMMITTEE ACTION

H.R. 2538 was introduced on May 21, 2015, by Congressman Jared Huffman (D-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian, Insular and Alaska Native Affairs. On June 17, 2015, the Subcommittee held a hearing on the bill. On February 2, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Jared Huffman offered an amendment designated 132; it was adopted by unanimous consent. No additional amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent on February 3, 2016.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Com-

⁶Rep. Jared Huffman surprised at opposition to Lytton tribe's plans near Windsor. The Press Democrat. August 28, 2015. <http://www.pressdemocrat.com/news/4398626-181/rep-jared-huffman-surprised-at?artslide=0>.

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 2538—Lytton Rancheria Homelands Act of 2015

H.R. 2538 would take into trust, for the benefit of the Lytton Rancheria of California, a federally recognized Indian tribe, certain lands located in the County of Sonoma, California. The bill would specify certain prohibitions on gaming on the affected land, consistent with an existing memorandum of understanding between the tribe and the County of Sonoma.

Based on information from the Bureau of Indian Affairs, CBO estimates that implementing H.R. 2538 would have no significant effect on the federal budget. CBO estimates that any change in the agency's administrative costs under the bill, which would be subject to appropriation, would not exceed \$500,000 annually. Because enacting H.R. 2538 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2538 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 2538 would impose an intergovernmental mandate, as defined in the Unfunded Mandates Reform Act (UMRA), by preempting the authority of state and local governments to tax land taken into trust for the Lytton Rancheria. CBO estimates the costs of the mandate would not exceed the threshold established in UMRA (\$77 million in 2016, adjusted annually for inflation).

H.R. 2538 contains no private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Megan Carroll (for federal costs) and Rachel Austin (for intergovernmental mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Congressional Budget Office estimates that implementing the bill "would have no significant effect on the federal budget".

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to take lands in Sonoma County, California, into trust as part of the reservation of the Lytton Rancheria of California.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandate as defined by Public Law 104-4.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

