

**Testimony
Of
Darryl LaCounte
Acting Deputy Bureau Director-Trust Services
United States Department of the Interior
Before the
Senate Committee on Indian Affairs
On
H.R. 597, “The Lytton Rancheria Homelands Act of 2017”**

April 25, 2018

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. 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, 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.

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Darryl LaCounte
Acting Deputy Bureau Director-Trust Services
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On**

H.R. 1491, “The Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017”

April 25, 2018

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 1427 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.