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TESTIMONY
THE COMMITTEE ON INDIAN AFFAIRS
UNITES STATES SENATE

HEARING ON S.113, A BILL TO MODIFY THE DATE OF WHICH
CERTAIN TRIBAL LAND OF THE LYTTON RANCHERIA OF
CALIFORNIA IS DEEMED TO BE HELD IN TRUST

APRIL 5TH, 2005

Good morning Chairman McCain, Senator Dorgan, members of the Committee. My name is Loni Hancock and I serve as an Assemblymember in the California State Legislature. My district includes most of the East San Francisco Bay Area including the cities of Oakland, Berkeley, Richmond and San Pablo.

Let me first say thank you for having this hearing today on S. 113 authored by Senator Feinstein. This legislation requires the proponents of Casino San Pablo to follow the process set out under the Indian Gaming Regulatory Act. So let me first clearly express my support for Senator Feinstein's legislation.

Second, I would like to speak about the role of the State Legislature and the legislative history regarding Casino San Pablo. As you know, in order for a tribe to open a casino they must negotiate a gambling Compact with the Governor of that State. That Compact, negotiated between the tribe and the Governor, is subject to legislative ratification by the State Legislature.

The Casino San Pablo proposal came to my attention in August of last year. The Compact was submitted to the Legislature by the Governor as part of a package of 5 compacts in the last week of the legislative session when the Legislature was voting on roughly 800 bills.

The Compact - negotiated between the tribe and the Governor - authorized 5,000 slot machines and a 6 story, 600,000-square-foot facility. To put these figures into perspective, the Compact would have made Casino San Pablo

the third largest slot machine operator *in the country*. Only the two casinos in Connecticut have larger operations.

In terms of square footage this casino would have been the size of six Wall Marts *combined*. Keep in mind this casino would be built in the middle of the already heavily congested San Francisco Bay Area. Other provisions in this Compact allowed the Governor's chief financial officer *in his or her sole discretion* to completely obviate any or all of the local government mitigation provided for in the Compact.

After sustained legislative opposition, the Compact was amended to reduce the number of slot machines to 2,500. This amended Compact created a casino with as many slot machines as any casino on the Las Vegas strip. Also included in the revised Compact was a provision allowing renegotiation of the number of slot machines in 2008. In essence, this provision made it possible for the casino to go right back to 5,000 slot machines.

Given the nature of this revised Compact, my colleagues in the California Legislature made it clear they would not ratify the Compact or authorize an expansion of Las Vegas style gambling into one of the State's most densely populated urban areas.

The Casino San Pablo proposal touches on many of the complex issues surrounding the expansion of Indian gambling in California and the expansion of off-reservation casinos. In 2000, the voters of California passed a statewide initiative-- Proposition 1A. Proposition 1A amended the State Constitution to provide for economic development by authorizing casinos in rural areas and on traditional ancestral tribal lands. This was *the intent* of Proposition 1A.

What we have seen since Proposition 1A's passage is some tribes, with ambiguous ancestral ties to a land parcel, making claims to that land for the sole purpose of opening a casino. In the San Francisco Bay Area alone we face the proposed development of up to 5 casinos within a 15 mile radius by tribes who have scant, if any, ancestral connection to those lands. In the case of the Lytton tribe at Casino San Pablo, the casino's location is 50 miles from Sonoma County - the traditional ancestral territory of their tribe. In another case, the Koi Nation tribe is proposing to build a casino adjacent to

the Oakland International Airport. This casino proposal located in Oakland is nearly 150 miles from the tribe's traditional lands in Lake County.

California is experiencing a proliferation of proposals for Indian gambling casinos that have little to do with self sufficiency on tribal lands. These "off reservation" casinos are, in reality, being supported by aggressive out-of state casino developers and their lobbyists who clearly hope to build casinos in every urban area of the State. Keep in mind that in California, Las Vegas style gambling is *illegal*. Las Vegas style gambling was only intended to be legal only for Indian tribes on their *traditional ancestral land*.

Finally, I would like to talk briefly about the community opposition to Casino San Pablo. Polls conducted by KPIX our local TV station showed that 57% of the respondents oppose the casino. I personally sent out a survey to every household with a registered voter in my Assembly District, which contains 156,000 voters and the returned surveys showed overwhelming opposition. The survey results indicated that 91% of my district is against the casino proposal. My staff has broken down the results of the survey by city. Even within the City of San Pablo-where the casino would be located-and where the city has been promised jobs and revenues for the cities budget, 64% of the returned surveys opposed the casino. Cities such as Albany and Berkeley who are in the surrounding community and will experience the negative impacts of increased traffic, crime, blight and gambling addiction have taken positions against the proposed casino. In addition, other cities are considering similar resolutions against the Casino and against expanding urban gambling in general. In fact, tonight, the local county Board of Supervisors, in which Casino San Pablo resides, will be approving a resolution against urban gambling and urban casinos. Mr. Chairman and members, I have *thousands* of letters, emails and surveys that say that Casino San Pablo is a bad economic development strategy for our community and for our State.

You will hear from the proponents of the Casino that they no longer intend to build a "Las Vegas" style casino, that they no longer intend to build entertainment venues, or that the casino now will not feature slot machines. The proponents will say that they will operate only Class II gaming machines i.e. electronic bingo machines.

But the one thing we have learned from this experience is that once land is placed into trust everything can change.....

In a letter to the Bureau of Indian Affairs in 1999, Mrs. Mejia the Chairwoman of the tribe told the BIA that “No other changes to the physical configuration or internal operation of the existing facility are proposed.” The letter goes on to say “Based upon the Band’s review of the physical constraints of the Facility, the Band believes the capacity of 1200 to 1500 gaming positions (*this means slot machines and poker tables*)...will not increase.”

After these statements were made to the Bureau of Indian Affairs, the tribe negotiated with the Governor a 5,000 slot machine casino and 600,000 square foot facility - and they said, no other changes to the physical facility would be made!

Recently a letter sent by the tribe to members of the State Legislature states that “...the tribe remains confident that this or a future legislature will eventually recognize the benefitsthat the Compact we negotiated in good faith offers.” In other words, the supporters of the casino intend to continue to put forward this Compact for a 2,500 slot machine casino and massive gambling complex with the ability to negotiate for even more slot machines when the environment is more politically favorable for them to do so.

In the final analysis, it is my belief that without the legislation authored by Senator Feinstein, the Lytton tribe will be able to open a massive casino at Casino San Pablo. This would be the first urban Las Vegas style casino that was never intended by the voters of the State of California, and is a direct violation of the federal regulations outlined in the Indian Gaming Regulatory Act. The entrance of tribal casinos on non-ancestral land - such as Casino San Pablo - in densely built urban areas would set a precedent for authorizing off reservation gambling casinos in California and every state where tribal gambling is permitted.

Thank you again, Mr. Chairman, for holding this hearing. I respectfully urge the Committee to act in support on Senator Feinstein’s legislation as soon as possible