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Testimony
Before the Committee on Resources
United States House of Representatives

Field Hearing on the Discussion Draft Legislation
Regarding Off-Reservation Indian Gaming

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I wish to thank you, Congressman Pombo, for inviting me to give testimony on your Draft Discussion Document to amend the Indian Gaming Regulatory Act To Restrict Off-Reservation Gaming.

The Colusa Indian Community, along with most tribes across our Nation, is very concerned about any effort to open the Indian Gaming Regulatory Act, no matter how noble the purpose. To do so -- even in a controlled environment -- puts at risk the sovereign rights of tribes across the United States.

The Indian Gaming Regulatory Act (IGRA) established a prohibition against gaming on lands acquired in trust after October 17, 1988, with certain exceptions:

1. Where lands are located within or contiguous to a Tribe's reservation;
2. Within the last recognized reservation of a landless tribe;
3. Oklahoma specific provisions;
4. Lands taken into trust as part of a settlement of land claims;
5. Lands that constitute the initial or restored reservations of Tribes acknowledged through the federal acknowledgement process or restored to federal recognition; and
6. The so-called "two part determination" process in which the Secretary of the Interior considers the best interests of the tribe and its members and the impact on the surrounding community, and the Governor of the State in which the gaming activity is to be conducted must concur with the Secretary's determination.

The procedures required in IGRA have worked successfully the last 17 years. During this time only three tribes have successfully taken land into trust for gaming purposes off reservation.

Unfortunately, when a tribe has circumvented the process defined in IGRA, it reflects negatively on all tribes.

The matter is further complicated by Developers who purposely seek lands in urban areas with the hope of capitalizing on a tribe's ability to acquire off reservation lands for gaming purposes. This practice, commonly referred to as "reservation shopping", is often promoted and financed by opportunistic non-Indian developers who seek a percentage of revenue from the resulting off-reservation casino. Their efforts have created a media frenzy of speculation that tribes are out of control in seeking lands for gaming purposes. This is not the case.

Attempts by Tribes to conduct gaming on lands outside of their ancestral territory for the sole purpose of gaming jeopardizes longstanding claims by Tribes seeking to restore lands unjustly taken by past federal policies. It has also caused significant tensions between tribal governments and created a backlash against Indian gaming by citizen groups and leaders in the United States Congress.

In exchange for casino deals, Tribes seeking off-reservation lands have been willing to cede important sovereign rights to State and local governments, and have entered into exorbitant revenue sharing agreements.

The sovereignty loss and revenue sharing agreed to by these Tribes becomes the new baseline for other Tribes when they seek to obtain or renew tribal-state gaming compacts or compact amendments, thereby jeopardizing the sovereignty of Tribes engaged in on-reservation gaming and following the IGRA process.

Along with other tribal leaders, I have serious concerns about the possible negative impacts of reservation shopping on the

long-term viability of tribal government on-reservation gaming. However, I do not believe opening IGRA is the best answer.

Tribal government gaming has been the only vehicle that has brought successful economic opportunity for tribal nations. While some tribes have limited themselves to gaming, many others have used the funds derived from gaming to rebuild their infrastructures, to provide dialysis and medical facilities on their reservations, to invest in quality child care for their members and their employees, and to expand into other forms of economic opportunity such as manufacturing facilities.

Tribal government gaming has brought our members out of poverty and restored pride in their ancestry and culture. We still have a long way to go to bring our people to the levels of the financial security enjoyed by the rest of the Nation, but we are well on our way.

Unfortunately there are many citizen groups as well as members of the State and Federal Legislature who would like to see us fail. They oppose the success we have been able to reap through tribal government gaming and do not understand the restraints that IGRA imposes as to how our gaming revenue must be spent.

Rather than expose Indian Country to further erosion of sovereign rights -- which will surely happen if IGRA is opened for modification -- I urge Congress to work directly with the Secretary of the Interior to require an ancestral tie to land in making two-part determinations under Section 20(b)(1) of the Indian Gaming Regulatory Act for proposed land acquisitions.

The Colusa Indian Community further urges Congress to require the Secretary of the Interior to consult with other tribes whose ancestral lands are sought for acquisition, and require the concurrence of those tribes before such lands are eligible for gaming.

Lastly, I urge Congress not to approve any special legislation that would permit gaming on lands outside of a tribe's ancestral territory.

Again, I thank you for this opportunity to share the views of the Colusa Indian Community. I am available to answer any questions.