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Testimony
Before the Committee on Resources
United States House of Representatives

Hearing on Off-Reservation Gaming
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Chairman Pombo, Ranking Member Rahall and Members of the House Resources Committee, my name is Richard Forster, and I am the Chairman of the Amador County Board of Supervisors. Chairman Pombo, first I would like to thank you for providing the opportunity to address the very important issue of off-reservation Native American gaming, and the direct ramifications this activity is having on our small, rural county.

In addition to representing Amador County, I have been asked by the California State Association of Counties (CSAC) to submit the following statement as part of my testimony:

“Our statewide Association in California the California State Association of Counties has been at the forefront of the Indian Gaming issue attempting to ensure that county boards of supervisors have the tools to protect their affected communities from the impacts of Indian Gaming--rural and urban alike.

“Policy was recently adopted by the CSAC board representing all 58 counties that is consistent with the intent of your draft bill. CSAC’s policy specifically addresses the issue of “reservation shopping” and states that:

“CSAC opposes the practice commonly referred to as “reservation shopping” where a tribe seeks to place land into trust outside its aboriginal territory over the objection of the affected county.’

“Upon initial review, CSAC is very pleased to note that your draft bill supports this position and recognizes the important role of local government. CSAC plans to present detailed written testimony to the Committee within the week.”

Through my testimony today, I will attempt to provide you with an understanding of the impact of Indian casinos on Amador County. Chairman Pombo, we believe our circumstances support your initiative to provide local government with the ability to have significant input in the approval process of federal Indian gaming on land that otherwise would be within its jurisdiction. Amador County and CSAC view your draft legislation as a serious effort to balance local and state concerns regarding “reservation shopping” with the economic development needs of tribes.

Amador County

Amador County is a rural county of approximately 35,000 people located on the western slope of the Sierra Nevada, roughly midway between Sacramento and Lake Tahoe. There are three separate, federally recognized Bands of Miwok Indians that are either operating or seeking to operate casinos within the County.

Currently, two separate tribes are proposing to open large Indian gaming facilities within 12 miles of each other and the existing Jackson Rancheria casino. The County is very concerned about the harmful impacts of multiple casinos on the quality of life for our small, rural community. The following is a brief summary of the status of the proposed casinos and information on the position of the County.

Jackson Rancheria Band of Mi-Wuk Indians

The Jackson Rancheria Band of Mi-Wuk Indians opened the Jackson Rancheria casino in 1997 and has worked positively with the County to mitigate off-reservation impacts attributed to casino activities.

This tribe has entered into a local partnership through which it pays the local governments for services delivered to the casino property and to address various local concerns, including environmental impacts. The County has worked to build a positive working relationship with the Jackson Rancheria Band in the past on various issues of mutual interest and anticipates a continuation of this good working relationship. We appreciate the efforts of Tribal Chairperson Margaret Dalton and the Tribal Council in fostering a mutually beneficial partnership with the County.

Lone Band of Miwok Indians

The Lone Band of Miwok Indians (Lone Band) has notified the Secretary of the Interior of its intent to have non-tribal lands placed in federal trust for the purpose of constructing a casino, hotel and other facilities on the trust acquisition property. This land is within and partially adjacent to the City of Plymouth.

The County opposes the Band's proposal to acquire the Plymouth site for the stated purpose of constructing and operating a casino. Of the 227 acres proposed to be acquired for the casino project, eleven acres are within the City and 216 acres are adjacent to the City and in the unincorporated area of Amador County. It is unquestioned that the proposed casino project will have significant adverse impacts on the County and City. It is anticipated that the amount of traffic will vastly increase on narrow state routes, city streets and county roads and escalate the danger to public safety. In addition, the project fails to identify a long-term drinking water supply and an adequate wastewater treatment and disposal facility for the casino.

The City of Plymouth entered into a Municipal Services Agreement (MSA) with the Lone Band for delivery of municipal services to the casino. The County filed and won a lawsuit to invalidate the MSA and require the City to perform the environmental analysis and review as required by the California Environmental Quality Act. The City is appealing this decision.

Chairman Pombo, your draft legislation would provide precisely the kind of protection and participation which a rural county such as ours desperately needs. The Lone Band's project is wrong for the area, as witnessed by the abject opposition to the proposal from the following local government entities and organizations: City of Jackson, City of Lone, City of Sutter Creek, City of Amador City, Amador Air District, Foothill Conservancy, Amador Chamber of Commerce, Amador Winemakers Association, the Amador County Farm Bureau and the Amador School District. The scope of local opposition to this project is virtually unparalleled in our county.

We view the Plymouth casino proposal to place another casino in our small, rural county – in the absence of local support - as the wrong project at the wrong place. There are serious issues of public safety associated with it, including the site's proximity to residential areas and at least one school. In addition, an archaeological study of the site conducted in 2000 produced no evidence of any Indian occupancy of the land at any time, clearly suggesting "reservation shopping" in the purest sense of the term.

Buena Vista Rancheria of Me-Wuk Indians

The tribe occupying this restored Rancheria is proposing a massive casino development project within the boundaries of the former Rancheria. As the map I have with me today shows, the land is a narrow strip which is only 578 feet wide and one mile long and is unsuited for a major building project, yet the tribe proposes a casino and related buildings of approximately 500,000 square feet. Moreover, the Rancheria is in an isolated rural location served exclusively by narrow country roads. At this time, the site does not have access to the required water and wastewater disposal services and the County has not been advised as to how these kinds of problems would be addressed.

The County opposes the placement of a casino on this site because the rules and regulations in place at the federal level do not support the approval of this action.

The land is not in trust. In fact, the Department of the Interior rejected a trust application for the Rancheria in 1996 and confirmed only a year ago that the land still is in fee – and not trust – ownership. I have copies of correspondence from the Department of the Interior documenting these facts and would respectfully ask that they be submitted for the record.

The history of this tribe is reason enough for serious scrutiny on the development of the Rancheria site. For years, the tribe claimed only three adult members, until the Department of Interior determined that none of the three qualified for membership at the Buena Vista Rancheria. Instead, the Department found that a fourth person living in Sacramento was the only known person eligible for membership in the Rancheria tribe. Today, she is the Tribal Chair of the Band and is advocating for a project that she had opposed prior to Interior's membership determination.

The tribe has a Gaming Compact which was executed by the previous three-person governing body. The Secretary recently approved a Compact Amendment which would allow a Super Casino with more than 2,000 gaming machines and 80 gaming tables. In addition, the tribe is seeking from the National Indian Gaming Commission (NIGC) a determination that the Rancheria land qualifies as an Indian "reservation" under IGRA.

We believe that the land does not so qualify and have presented comprehensive statements to both Interior and the NIGC without receiving any response in return. Relevant to this discussion is the fact that the NIGC receives and processes

tribal requests for land determinations without advising the local governments that the requests even exist. We learned of the Buena Vista request by accident and were able to submit our position, although there is no reason to believe that our statements were even read let alone considered because of no acknowledgement from the NIGC. I suspect that many local governments missed the NIGC review altogether because there is no requirement for local notice.

This is a bad project for the immediate area, it is a bad project for the County and it is bad precedent for Indian gaming in general. It is the kind of project that your legislation was drafted to address. The case for greater local input and participation in the decision-making process, as called for in your draft legislation, is clearly evident in this instance.

Conclusion

The development of an Indian casino raises legitimate concerns about the impact upon existing land use patterns, the environment, clean water and air, species and habitat protection, traffic congestion, public safety and the overall quality of life. Locating three large Indian casinos within a 12 mile radius of each other in a small rural county is not good public policy and most certainly would be detrimental to the surrounding communities.

Amador County hopes that by discussing this difficult situation we face along with numerous other counties and municipalities nationwide, that this will move Congress and the Department of Interior to consider new policies. These changes must reflect the need for tribes to have a verified historical connection to the site of a proposed casino and recognize that local government should have a significant voice in the process.

The problems created by the shortcomings of the Indian Gaming Regulatory Act are real, and they increase month by month as a result of creative proposals from lawyers representing tribes seeking off-reservation casinos in places never contemplated by Congress in 1988 when the IGRA was written.

Chairman Pombo, Amador County and the California State Association of Counties believe your draft legislation is a thoughtful and creative approach to resolving some of the continuing problems faced by local governments, while also providing a vehicle for tribes to legitimately pursue their gaming opportunities. Thank you for the opportunity to present a local government perspective on this difficult issue. I would be happy to answer any questions that you may have regarding this testimony.