



Senator Feinstein Testifies on Lytton Casino Bill April 5, 2005

Washington, DC – The Senate Indian Affairs Committee today convened a hearing on legislation sponsored by U.S. Senator Dianne Feinstein (D-Calif.) that would require the Lytton Band of Pomo Indians to follow the regulatory process set out in the Indian Gaming Regulatory Act (IGRA) in order to build a casino on the site of their card room in San Pablo, California.

Following is the prepared text of Senator Feinstein's testimony before the committee:

“First, I want to thank Chairman McCain, Senator Dorgan, and the other members of this Committee for giving me the opportunity to testify today on the Lytton legislation.

I am also pleased to see that my friend and colleague from California, Congressman George Miller, will join me today in testifying before the Committee.

Finally, I especially want to acknowledge two individuals who are here to speak in support of this legislation: California Assemblymember Loni Hancock and Chairman Mark Macarro of the Pechanga Band.

The Lytton Gaming Compliance Act, or S. 113, has one simple purpose:

- To ensure that the Lytton tribe follows the regular process set out under the Indian Gaming Regulatory Act (IGRA) for gaming on newly-acquired lands.

This legislation strikes a provision inserted into the Omnibus Indian Advancement Act of 2000. That provision mandated that the Secretary of Interior take a card club and adjacent parking lot in the San Francisco Bay Area into trust for the Lytton tribe as their reservation and backdate the acquisition date to October 17, 1988, or pre-IGRA.

This backdating was done expressly with the purpose of allowing the Lytton tribe to circumvent IGRA's 'two-part determination' process – an important step that requires both Secretarial and Gubernatorial approval, along with consultation with nearby tribes and the local community.

The legislation that I have introduced would simply return the Lytton tribe to the same status as all other tribes seeking to game on newly-acquired lands.

I also want to emphasize what the bill would not do. It would not:

- Remove the tribe's recognition status;
- Alter the trust status of the new reservation; or

- Take away the tribe's ability to conduct gaming through the normal IGRA process.

This bill is not about preventing the Lytton from opening a casino. The legislation was solely crafted to restore IGRA's rightful oversight over the gaming process – just as Congress intended.

Section 20 of the Indian Gaming Regulatory Act has clear guidelines for addressing the issue of gaming on so-called 'newly-acquired' lands, or lands that have been taken into trust since IGRA's enactment in 1988.

Most importantly, in my opinion, IGRA includes a process called the 'two-part' determination which provides for both federal and state approval, while protecting the rights of nearby tribes and local communities.

Circumventing this process creates a variety of serious and critical multi-jurisdictional issues – issues which can negatively affect the lives of ordinary citizens and deprive local and tribal governments of their ability to effectively represent their communities.

Nevertheless, we need to be honest about the real reason we have seen a proliferation of cases like the Lytton, with an increasing number of tribes attempting to open casinos outside traditional Indian lands.

Attempts at off-reservation gaming and the practice of 'reservation shopping' have increased dramatically in my State over the past five years and it is now estimated that there may be up to 20 proposals to game outside of tribal lands in California.

I have watched as out-of-state gaming developers have sought out tribes offering to assist them in developing casinos near lucrative sites in urban areas and along central transit routes – far from any nexus to their historic lands. Today, in the San Francisco Bay Area alone, there are at least 5 such proposals.

Off-reservation gaming was clearly not what the people of California voted for when they overwhelmingly passed Proposition 1A in March 2000 to allow tribes in my State to engage in Nevada-style gaming on 'tribal lands.'

Not only did the Proposition language clearly state that gaming would take place on 'Indian' or 'tribal' lands, but this claim permeated the entire campaign in support of Indian gaming in California.

Without this bill, the Lytton will be able to take a former card club and the adjacent parking lot as their reservation and turn it into a large gambling complex outside the regulations set up by the Indian Gaming Regulatory Act.

Even though the tribe recently announced that it was temporarily dropping its pursuit of a casino, it could reverse these plans at anytime and proceed with both Class II and Class III gaming without first going through the regular process.

Allowing this to happen would set a dangerous precedent not only for California, but every state where tribal gaming is permitted.

It is not asking too much to require that the Lytton be subject to the regulatory and approval processes applicable to all other tribes by the Indian Gaming Regulatory Act.

I thank the Committee for allowing me the opportunity to testify before you today and would ask for your support to pass this bill out of Committee and send it to the Floor.”