

JARED HUFFMAN
2ND DISTRICT, CALIFORNIA

COMMITTEE ON
NATURAL RESOURCES

WATER, POWER, AND OCEANS – RANKING MEMBER
FEDERAL LANDS

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

HIGHWAYS AND TRANSIT
WATER RESOURCES AND ENVIRONMENT

WASHINGTON OFFICE
1630 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-5161
FAX: (202) 225-5163
WEBSITE: huffman.house.gov

Congress of the United States
House of Representatives
Washington, DC 20515-0502

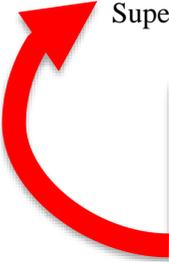
August 10, 2015

Dominic Foppoli, Councilman
Windsor Town Hall
9291 Old Redwood Hwy., Bldg. 400
Windsor, CA 95492

Dear Councilman:

You have asked me to explain whether a vote by the Windsor town council on supporting or opposing H.R. 2538 would affect my willingness to continue carrying the legislation. I appreciate your candor and thoughtfulness on this subject, and I hope I can clarify my position in a way that is helpful to you and your colleagues on the town council.

As you know, I introduced HR 2538 because I was asked to do so by members of the County Board of Supervisors and the Lytton Tribe.



MISINFORMATION: The Board never took action to join the Tribe in requesting introduction of the legislation. When the Board approved the MOA, it was informed that the Tribe had already asked Huffman to place the 500 acres in trust. The Resolution read, "Whereas, the Tribe is seeking proposed federal legislation to place into trust approximately 500 acres of land...." Article VIII of the MOA provides for County support of any legislation to take land into trust, but did not join the tribe in requesting such legislation. Section 8.1 provides that the County will "actively support the Tribe's effort whether legislatively or through the federal administrative process to take into trust the [specific] lands." The County supports the legislation but is not requesting it.

After many months of negotiations, they had reached a Memorandum of Agreement (MOA) which provides the framework for a settlement and resolution of their longstanding dispute over the tribe's desire to take land near Windsor into trust. The MOA includes specific environmental and land use protections as well as a clear prohibition on gaming.



MISINFORMATION: The environmental and land use protections in the MOA are much less than apply now under California law. The County could have withheld support unless the land remained governed by state and county laws. A number of states and counties around the county have done that when Congress considered laws to take lands into trust. Thus, in reality the MOA removes environmental and land use protections that already apply, and does not apply ones that did not apply before. **HALF TRUTH:** The prohibition on gaming is only temporary. It lasts for just 22 years and then the Lytton are free under the MOA to open a casino on the site.

SAN RAFAEL
999 FIFTH AVENUE, SUITE 290
SAN RAFAEL, CA 94901
PHONE: (415) 258-9657
FAX: (415) 258-9913

PETALUMA
206 G STREET, #3
PETALUMA, CA 94952
PHONE: (707) 981-8967
FAX: (415) 258-9913

UKIAH
559 LOW GAP ROAD
UKIAH, CA 95482
PHONE & FAX: (707) 671-7449

FORT BRAGG
430 NORTH FRANKLIN STREET
P.O. BOX 2208
FORT BRAGG, CA 95437
PHONE: (707) 962-0933
FAX: (707) 962-0905

EUREKA
317 THIRD STREET, SUITE 1
EUREKA, CA 95501
PHONE: (707) 407-3585
FAX: (707) 407-3559

The MOA contemplates that, rather than waiting for the BIA to resolve the tribe's land-to-trust application, federal legislation would be introduced to take the land into trust and protect the integrity of the agreement from possible interference from the BIA, as well as make a gaming prohibition on the property federally binding and permanent.



MISINFORMATION: The MOA nowhere expresses any concern about the administrative process overseen by the BIA or interference by the BIA. Nor were any such concerns expressed at the hearing. Nor would such concerns be justified. The BIA never interferes with local agreements. Nor does the MOA express any preference for new legislation over the administrative process. The real purpose of the legislation was obviously to get around the Carcieri case, which ruled that existing law does not allow land to be taken into trust for tribes, like Lytton, that were formed after 1934. The earliest that the Lytton formed was 1937. Thus the BIA has no authority to take land into trust for them. The Lytton needed new legislation.

While I was not involved in negotiating the MOA, I do share the County's concern for preventing a new casino in the North Bay, securing enforceable mitigation funding, and ensuring other community safeguards and protections — none of which would be available if the Lytton tribe secured trust status through its pending application to the BIA.



FALSE: This is a red herring. Huffman well knows that under Carcieri, the BIA has no authority to take the land into trust. None of these purported concerns can occur under current law. Rather, his bill creates the problem and exposes the lands and the area around the lands to the problem. His bill could have required that state law continue to apply to the land even if it is taken into trust - but it doesn't. Instead, it removes the land from zoning controls and will allow the construction of six times the number of houses otherwise allowed in the area as well as a hotel and huge winery.

For that reason, and also in consideration of cooperative agreements between the Tribe and the Windsor Fire Protection District and Windsor School District, I felt that the County's MOA was a smart move that protected the community's best interests, and that the Lytton tribe had shown good faith in reaching cooperative agreements with its local government neighbors instead of simply pressing the matter through the BIA.



FALSE: Again, the red herring. The BIA cannot take the land into trust and Huffman knows it and is misleading the public. The County's MOA was neither smart nor in the community's best interest. It gives up sovereign control over this precious land and allows for development completely inconsistent with the County's own General Plan. And it does this for no good reason. Neither Lytton nor the County can be said to have acted in good faith. Both are doing their best to mislead the public about the law and to hoodwink the Town into going along with them.

Accordingly, I agreed to introduce the federal component of the County's MOA, HR 2538, to safeguard the MOA from potential interference by the BIA and to make permanent the casino prohibition.

FALSE: Huffman is trying to turn reality on its head. Under current law, the BIA cannot take the land into trust, and no MOA is needed to protect. Huffman did not introduce HR 2538 to protect the MOA or the neighbors. Without his bill the land cannot go into trust. It will remain governed by state law, and by the County's General Plan. Huffman is running his bill for the Lytton, to get them something they cannot get without the bill. This exposes the land to unrestricted development and makes the MOA necessary. Huffman's bill creates the problem; it does not solve it. And the MOA hardly lessens all the damage done by the bill.

A robust community discussion is now underway regarding the pros and cons of the intergovernmental agreements with the Tribe and HR 2538.

MISINFORMATION: The discussion is about how Huffman and the county have lied to the public, how they have said the Lytton will get land taken into trust and agreements and new laws are needed with the Lytton to prevent terrible impacts, but the truth is that current law would not allow the land to be taken into trust and no agreements are needed and no new laws are needed. The new law and the agreements would leave the neighbors much worse off than they are currently.

Some people who were not aware of the negotiations involving the Town or County, or did not know the details and scope of the MOA, feel frustrated by the process, and some are simply opposed to the land going into trust under any circumstances. While many of the opposition claims are not well founded in fact or in law,

FALSE: It is the politicians who are spreading falsehoods, not the opposition. Even the County, in its recent Fact Sheet, begins to acknowledge that the Carcieri case "appear[s] to be a barrier for the Tribe to successfully take land into trust administratively." So why pass a new law that would allow that and enter into MOA's to gain back only some of the protections? It is better not to let the land be taken into trust in the first place.

one thing has become clear: more should have been done to keep the public informed of the negotiations that were unfolding between the County and the Tribe over the course of the past year or two.

DISTRACTIONS AND FALSEHOOD: The main problem is not that the public was not informed of the negotiations. The main problem is the public was informed with a string of falsehoods, and government at every level has been complicit in this pattern of deception. It is a remarkable testament to current levels of corruption and cronyism.

Because my legislation is intrinsically linked to the MOA,



FALSE: Huffman's legislation is not intrinsically linked to the MOA. The MOA is an attempt to mitigate some of the harms resulting from the legislation. It is only needed because of the Huffman bill but that does not make the Huffman bill necessary. To the contrary, the MOA evidences that everyone would be better off without the Huffman bill.

I am committed to engaging with interested members of the community, listening to their perspectives and concerns, and working closely with my local government partners who are closest to the issue. It is important to note that the Lytton land in question is almost entirely in unincorporated county land. For that reason, the most important of these local government partners is the County of Sonoma.



MISINFORMATION: The land lies literally across the street from the Town of Windsor. It is adjacent to the Town, and includes some lands within the Town's Urban Growth Boundary. Further, an important component of the plan is that the Lytton need to process sewer waste and there are no County sewer lines in the area. The Lytton seek to connect sewer pipes to the Town's system, but this requires the consent of voters in Town. This should make the Town the most important partner, and it is extremely troubling that Congressman Huffman ignores this point. For the Lytton have threatened to dig a septic pond, full of sewage waste just a few hundred yards from a dense housing development of Windsor. Further the effluent pond would be upwind from all these neighbors. Lytton also has proposed constructing spray fields west of the Town, where treated water will be sprayed onto empty lands but also might blow over the Town. Congressman Huffman's bill has neither prohibited construction of such disposal of sewage nor made taking the land into trust contingent on Town approval of hook-up to the local sewage system. Rather, Congressman Huffman has, in common parlance, just thrown the Town under the bus.

The Board of Supervisors continues to strongly support the MOA and the federal legislation.



THE REAL TRUTH: The Board's support was bought with \$6.1 million. These are unrestricted payments to the County that the Supervisors can spend however they may wish, and don't have to use to help the Windsor area. In other words, the neighbors suffer the consequences and the Board members reap the benefits. The Board members can pass this out, like candy, to programs and peoples that help with their reelection.

Regarding the Windsor Town Council, in the weeks following the County's MOA announcement when my intention to introduce federal legislation in support of the MOA was well known and publicly

explained in the Press Democrat among other places, my staff and I received no negative feedback or indications of concern or opposition from any Windsor city official or councilmember.

OMISSION: On June 17, 2015, the House Subcommittee on Indian Affairs held a hearing on HR 2538, and the Subcommittee received personal (not form) letters from numerous residents of Windsor opposing the bill. Huffman seems to ignore this outpouring of public opposition to his bill. We have a poll taken of the Town in May, and it shows that public opposition to the Lytton development is 70%.

If at some point that changes-i.e., if the council decided to take a position opposed to the MOA and HR 2538-that is something I would consider,

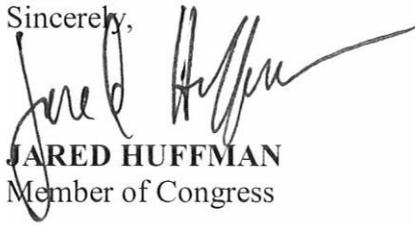
INSULT: Never once does Huffman indicate he will give any consideration to the views of the numerous residents of Windsor who oppose the Lytton development and his legislation. Having already thrown them under the bus, he simply walks away.

but it would not, standing alone, cause me to withdraw as a co-sponsor of HR 2538. I value the Town's perspective, but given the County's direct jurisdictional interest and authority on this issue, and the broader countywide implications including important environmental protections and preventing a new casino in this area, the position of the Board of Supervisors would continue to be my primary consideration.

INSULT: Again, Huffman ignores public opinion. The excuse of the County's interest has been debunked already. As discussed above, the MOA is totally dependent on Huffman's bill, not the other way around. If he withdraws his bill, there is no need for the MOA.

I hope this explanation is helpful.

Sincerely,


JARED HUFFMAN
Member of Congress

cc: Windsor Town Council

We hope this clarification is helpful.
Sincerely,
Citizens for Windsor

