

The Observer-Dispatch

March 13, 2006

Question: How did we get to this point?

Answer. For more than three decades, the possibility that the Oneida Indian Nation could reclaim its original reservation land has caused uncertainty among the people who live on that 250,000-acre swath of Central New York.

During those same years, the Oneida Nation began building up its business enterprises, and has now become the largest private employer in Oneida County. With its Turning Stone Resort and Casino and other businesses, it now employs about 4,600 people.

As its prosperity grew, the nation purchased numerous properties, and it now owns more than 17,300 acres scattered across a large area of western Oneida County and eastern Madison County.

Every time it purchased another parcel, the Nation asserted the lot was no longer subject to state and local taxes and regulations because it had become Indian country.

But one local government, the city of Sherrill, filed suit to force the Oneidas to follow the same tax laws as other citizens within its boundaries. After years of litigation, the U.S. Supreme Court ruled a year ago in favor of Sherrill.

Now, municipalities with Oneida-owned parcels are asserting their right to tax the properties and enforce other local laws.

In response, the Nation has applied to place that land into federal trust, a move which if successful, would effectively circumvent the Supreme Court's decision.

The U.S. Bureau of Indian Affairs is expected to make a decision within the next year.

Indian casinos raising concerns

Many communities don't want them

By JERRY ZREMSKI

NEWS NATIONAL REPORTER

3/12/2006

WASHINGTON - While Buffalo appears to be cautiously embracing the Seneca Nation's proposal for an off-reservation casino, concern grows in Congress and nationwide about Indian tribes building gambling halls in communities that don't want them.

Communities in Michigan, Oregon and other states have voiced "grave concerns," said Sen. John McCain, R-Ariz., who recently convened a series of hearings that cast a harsh eye on off-reservation gambling.

Asked to gauge the public outcry, McCain said: "It's getting bigger all the time." McCain, who heads the Senate Select Committee on Indian Affairs, said he had not heard about the Seneca Nation's plans for a Buffalo casino. "But I'm sure I will," he added. And if he does, he'll probably hear about a series of contrasts between the approach to Indian-run casinos in the Buffalo area and the approach nationwide. For example:

The Seneca Buffalo Creek Casino is moving forward without any of the environmental reviews that federal officials tout as central to off-reservation casino approvals in other places. After New York State used eminent domain to take property for the Senecas in Niagara Falls, the American Conservative Union cited the move when asking members to fight land confiscations nationwide.

A recent Buffalo News poll found a narrow majority of city voters favoring the Seneca casino, but residents of other communities have fought back, fearing the changes a casino would bring. So far, at least, off-reservation gambling halls are relatively rare. The Seneca Niagara Casino was only the fourth nationwide. But the national outcry is growing because the Department of the Interior is faced with applications for 13 more off-reservation casinos. Tribes have proposed building casinos in urban areas such as Detroit and Denver, along with environmentally sensitive areas like the Columbia River gorge in Oregon.

At a recent Senate hearing, the Interior Department's top Indian gambling official stressed that off-reservation casino proposals have to withstand a serious federal review under the National Environmental Policy Act, which can delay a casino's construction for up to a year. "The public has an opportunity to comment during the . . . process, which includes a review of socioeconomic impacts such as housing, jobs and the rate of population growth in the area," said George T. Skibine, acting deputy assistant secretary of the Interior.

While an environmental assessment was conducted in Niagara Falls before the 2002 opening of the Seneca Niagara Casino, no such review has taken place in Buffalo. And Indian gambling experts think that makes the planned Buffalo gambling hall the only Indian casino that has been able to move forward without such a review. "I can't say unequivocally that it's never occurred, but it's highly unusual," said Steven Andrew Light, co-director of Institute for the Study of Tribal Gaming Law and Policy at the University of North Dakota.

That being the case, when a Buffalo citizens group sued the federal government in hopes of stopping the city casino, it included a claim that the Interior Department violated federal law by not requiring an environmental review. "You'll have increased traffic, lots of light, increased pollution, and all of it 24 hours a day," said Richard Lippes, a lawyer for the citizens group. "All of that has to be looked at as a potential environmental consequence."

The lack of an environmental review in Buffalo is by no means the only thing that makes the Senecas' efforts unusual. Light said he believes that in Niagara Falls, New York became the only state to help an Indian tribe assemble land for its casino through eminent domain.

That move has recently become something of a sensation among conservatives fighting such “takings” of private property. On Fox News, “Hannity and Colmes” recently featured the Niagara Falls situation. And the American Conservative Union issued an e-mail alert to members criticizing the state for taking land for the Senecas.

“What a strange irony when you consider that the Seneca Indian Nation is technically a sovereign nation within the United States!” the e-mail alert said. “Who knows . . . maybe one day our government may take land from American citizens and hand it over to France or Belgium. Who knows . . . maybe one day we’ll give Manhattan back.”

Steven Anderson of the Institute for Justice, a libertarian group that is fighting the expanded use of eminent domain, said the Seneca situation may not be unique for long. There’s concern that governments might help tribes build casinos by taking private land in both California and Ohio, he said.

Even without such help from state governments, Indian tribes nationwide have put forth off-reservation casino proposals that caught the attention of Congress. For example, in Clark County, Wash., the Cowlitz Tribe proposed an off-reservation casino on farmland not far from Portland, Ore.

“It would be Las Vegas-sized, the fifth-largest in America, towering over rural homes and farms in all directions,” said Alvin Alexanderson, who testified before McCain’s committee on behalf of a local group called Citizens Against Reservation Shopping.

Similarly, the Pokagon Tribe is planning a casino in New Buffalo, Mich., a town of 2,500 along Lake Michigan that clearly doesn’t want it, said Liz Thomas of Taxpayers of Michigan Against Casinos. “What has happened to my community is not unique, and that’s what makes it so sad,” Thomas told McCain’s committee. “It is not unusual or extraordinary because this nightmare is happening to towns all across America.”

In response to such complaints, McCain has proposed revising the Indian Gaming Regulatory Act to strengthen casino regulation and require that tribes have some historic ties to the land they acquire for off-reservation casinos.

A similar bill has been proposed in the House, along with legislation that would place a two-year moratorium on the federal approval of new off-reservation gambling halls.

Those proposals draw strong opposition from American Indians and their supporters. “We view [McCain’s proposal] as part of legislation that, overall, is destructive of tribal rights,” said Ron His Horse Is Thunder, chairman of the Standing Rock Sioux Tribe, who testified before McCain’s panel.

And Sen. Daniel K. Inouye, D-Hawaii, disputed McCain’s claim that off-reservation gambling is an unexpected phenomenon. “When the Indian Gaming Regulatory Act was passed, we clearly envisioned the possibility of off-reservation gaming and established a procedure to be followed,” Inouye said in a statement. “That procedure is working.”

Even if McCain’s bill or any of the others passed Congress, they would have no impact in Buffalo, where the Interior Department last year quietly signed off on the Senecas’ purchase of land for their casino.

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South Dakota Indian Tribe Will Open Abortion Business if Ban Becomes Law

by **Steven Ertelt**

LifeNews.com Editor

March 23, 2006

Pierre, SD (LifeNews.com) -- A South Dakota Indian tribe is throwing a monkey wrench into the state's plans to ban virtually all abortions in the state. Should the ban become law, one tribe says it will open up an abortion business on their tribal lands, which wouldn't be subjected to the abortion ban.

Cecilia Fire Thunder, president of the Oglala Sioux tribe of South Dakota, says Sioux nation sovereignty means the new ban doesn't apply. As a result, she said she will lead an effort to build a Planned Parenthood abortion center at the Pine Ridge Reservation.

"To me, it is now a question of sovereignty," she told Tim Giago who runs a web site called Indianz.com.

"I will personally establish a Planned Parenthood clinic on my own land which is within the boundaries of the Pine Ridge Reservation where the State of South Dakota has absolutely no jurisdiction," Fire Thunder said.

A former nurse and health care worker, Fire Thunder is the first woman president of the Sioux nation.

She told the web site that she is very angry that a state legislature comprised mostly of white men "would make such a stupid law against women."

However, Clementine Little Hawk Hernandez, the founder of Indians for Life, says Native Americans historically favor pro-life values.

"Our native people have such a rich tradition which is at its heart the love and respect for all life," Hernandez said. "It's truly amazing how pro-life our Native People are."

"As Native Americans, we must stand up and witness that all life is a sacred gift from God," she added.

Hernandez is a Lakota Sioux who was born on the South Dakota reservation and is an active member in the Tekawitha Conference. Her group is an outreach of the National Right to Life Committee.

TAKE ACTION: Voice your opposition to: Oglala Sioux Tribe, ATTN: President Fire Thunder, P. O. Box 2070, Pine Ridge, SD 57770

AG: Tribes not required to have workers comp insurance

OKLAHOMA CITY An Attorney General's opinion released today says federal recognized Indian tribes aren't required to provide insurance for injured workers under the Oklahoma Workers' Compensation Act.

But the opinion says tribes might elect to buy the insurance to cover their employees.

If the tribe opts for coverage, the opinion states that the insurance company from which the tribe buys the insurance is not immune from lawsuits.

The opinion says tribes are exempt from the Federal Unemployment Tax as long as they participate in the state unemployment program.

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Casino liability ruled out in off-reservation deaths

Sovereignty outweighs liquor laws

Howard Fischer
Capitol Media Services
Mar. 23, 2006 12:00 AM

Tribal casinos cannot be sued in state court even if they serve their customers too much alcohol and those people go out and kill someone else off the reservation, the Arizona Court of Appeals has ruled.

The three-judge panel acknowledged that the Desert Diamond Casino, operated by the Tohono O'odham Nation, obtained a state liquor license. Having the license made it subject to various laws regulating the sale of alcohol, including one that makes sellers liable if they serve someone who is "obviously intoxicated."

But Judge John Pelander, writing for the unanimous court, said that doesn't mean the casino waived its tribal sovereign immunity.

The lawsuit stems from a 2004 incident in which a vehicle driven by Douglas M. Levitski was headed the wrong way on Interstate 10 near Alvernon Way when he collided with a minivan. The driver, Barbara Linehan, was killed; her husband, Gary Filer, lost a leg. Levitski pleaded guilty to manslaughter and aggravated assault and was sentenced to 10 1/2 years in prison.

Filer separately filed a lawsuit against the casino, contending it was negligent in serving Levitski too much alcohol. That argument was buttressed by Levitski's attorney who argued that the casino on South Nogales Highway deserved a share of the blame for serving him past the point of intoxication and allowing him to retrieve his car from the valet.

Pelander said, though, that tribes are entitled to immunity and states cannot interfere with that. The judge said the casino, as an economic arm of the tribe, shares that immunity.

The judge did note that the tribe's own regulations require it to comply with state liquor laws. But Pelander said that, by itself, does not give Filer the right to sue. "There is a difference between the right to demand compliance with state laws and the means available to enforce them," the judge wrote.

"This conclusion, we hasten to add, may be unsatisfactory to some and arguably is divorced from the realities of the modern world in which on-reservation Indian gaming and alcohol sales have become commonplace."

He said that the serving of alcohol at reservation-run casinos clearly has an impact beyond reservation boundaries. But Pelander said that as long as Congress provides immunity for tribes, the state and its courts cannot rule otherwise.

The ruling still could leave Filer with another legal option: He has filed a similar complaint against the casino in tribal court, and that claim is pending.

Former Wind River judge pleads guilty to drug charges

CASPER, Wyo. (AP) -- A former Wind River Indian Reservation judge pleaded guilty to conspiracy to distribute methamphetamine and prescription drugs and to threatening a federal officer.

Lynda Noah, formerly Lynda Munnell, will face a minimum of five years in federal prison when she's sentenced on June 10.

During Tuesday's hearing, Noah seemed reluctant to admit to the crimes, saying that she suspected -- but didn't know -- that trips to Utah with her sister were to retrieve drugs, and that when she said during a taped telephone call that a Bureau of Indian Affairs police officer "ought to be shot" that it was "just a remark I made."

U.S. District Judge William Downes told Noah she shouldn't plead guilty if she didn't knowingly commit crimes, saying he was particularly troubled by her remarks about the alleged threat.

"I don't want to get a letter from the federal prison saying I bludgeoned you into admitting guilt," Downes said. "If you don't believe you are guilty of this crime, then don't admit to it. If you want to go to trial over this, then we will adjourn and put the government to the burden of proof."

After a brief recess, Noah pleaded guilty, saying she'd talked about the officer being shot with the hope that it would put an end to what she called "harassment by the law enforcement."

Noah was a sitting judge when she and 24 others were arrested last year in connection with a drug ring that authorities said brought methamphetamine and other drugs from Mexico, through Utah, then to Wind River and to Indian reservations in South Dakota and Nebraska.

Wind River, in central Wyoming, is shared by the Northern Arapaho and the Eastern Shoshone tribes. Noah is an Arapaho tribal member and was nominated to the court by her tribe.

Information from: The (Riverton) Ranger, <http://www.dailyranger.com>

6:10 am PT, Monday, Mar 6, 2006

Oregon Congressman David Wu: The Gorge & The Tribe Deserve Better Voice Your Opinion

By Rep David Wu (D-OR)

Washington, DC - Today Congressman David Wu sent his third letter to the United States Department of the Interior on the proposed development of a gambling casino complex in the heart of the Columbia River Gorge National Scenic Area. "It is necessary to provide the Columbia River Gorge and the Confederated Tribes of the Warm Springs Reservation with the most comprehensive environmental impact statement. Excluding alternative sites from the detailed analysis puts at risk the economic viability of the Warm Springs and surrounding communities," said Representative Wu.

Congressman Wu's letter follows a Senate Committee on Indian Affairs hearing* earlier this week during which he questioned George Skibine, Acting Deputy Assistance Secretary of Indian Affairs for the U.S. Department of the Interior.

Congressman Wu asked Mr. Skibine if on-reservation alternatives would be explored in the scope of the environmental impact statement for the proposed development of a gambling casino complex in the Columbia River Gorge National Scenic Area. Congressman Wu is concerned the Tribe's needs statement was manipulated to exclude certain alternatives.

Mr. Skibine assured Congressman Wu by saying, "we will look precisely at the issue you are raising when we review the documents."

However, just one day later, the Department of the Interior, Bureau of Indian Affairs released its scoping report for the draft environmental impact statement and that it is in direct conflict with the commitment Mr. Skibine gave Congressman Wu during the hearing.

The scoping report explains that only off-reservation sites in the Columbia River Gorge will receive a detailed analysis, whereas on-reservation alternatives will be eliminated from a thorough analysis.

This determination completely ignores the 1,280 comments received in opposition to the proposed project. Only 220 were in support of the off-reservation Columbia River Gorge gambling proposal.

A full text of Congressman Wu's letter follows:

BY HAND DELIVERY

March 3, 2006

The Honorable George Skibine
Acting Deputy Assistant Secretary
Policy and Economic Development for Indian Affairs
United States Department of the Interior
1849 C Street NW Room 3657
Washington DC, 20240

Subject: Indian Gambling Casino proposal for the Columbia River Gorge National Scenic Area

Dear Mr. Skibine,

I am writing you about your recent testimony and the questions I posed to you before the Senate Committee on Indian Affairs on February 28, 2006. When I asked you specifically whether on-reservation, out of the Columbia River Gorge alternatives would be considered, I felt you gave me sufficient assurances that all alternatives will be explored in the scope of the Environmental Impact Statement (EIS).

Let me point out to you that over 1,800 scoping comments were received. Of these, only 220 were in support of the off-reservation Columbia River Gorge gambling proposal. Fully 1,280 opposed the proposed project and another 210 commented on alternative sites.

You made the commitment to consider alternative sites on Tuesday February 28, 2006. On Wednesday March 1, 2006, with no further notice to me, the U.S. Department of the Interior, Bureau of Indian Affairs released its Scoping Report for the Draft EIS. That report recommends detailed analysis of potential sites in the Columbia River Gorge National Scenic Area. Sites out of the Columbia River Gorge and on the reservation, including those raised by Senator Gordon Smith of Oregon and me, were eliminated from the detailed analysis for the EIS. This Scoping Report is in direct conflict with the commitment you made at the Senate hearing only one day before.

I do not believe excluding alternative sites from the EIS study will help the Confederated Tribes of the Warm Springs Reservation. Their economic viability and community will be at great risk. It is necessary to provide the tribe and the State of Oregon the most comprehensive EIS considering this matter, including those alternatives proposed by Senator Smith and me.

I ask the Department of Interior to amend the Scoping Report to include a full range of alternatives in its comprehensive analysis. Further, I ask that you provide me with 24 hour notice before you release any additional public reports concerning the proposal to build an off-reservation Indian gambling casino in or near the Columbia River Gorge National Scenic Area.

I look forward to your prompt response to and resolution of this most important matter.

Very truly yours,

David Wu
Member of Congress

cc: Senator John McCain, Chairman

Senator Byron Dorgan, Ranking Member
Senator Gordon Smith
Governor Ted Kulongoski
Secretary Gale Norton

*A webcast of the February 28 hearing before the Senate Indian Affairs Committee can be found at: http://indian.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=8

Q&A starts at about 20 minutes in to the hearing.

**A copy of the scoping report can be found at: http://www.gorgecasinoeis.com/scoping/dd/scoping_report.pdf

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Hawaii Reporter
Freedom to Report Real News

Money Mates with Political Power, Gives Birth to the 1988 Indian Gaming Regulatory Act and a Host of Problems

By Elaine Willman, 3/8/2006 10:17:31 AM

“If a tribe in the Midwest wants to submit an application (for a Class III tribal casino) for a 2-part determination for land in Manhattan, (New York) it can do so because IGRA Section 20 (B)(1)(a) (Indian Gaming Regulatory Act) does not impose any boundaries. It’s about off-reservation but it doesn’t say it has to be within the state that the tribe is located, so that can happen.” George Skibine, Senate Committee on Indian Affairs Hearing, Feb. 28, 2006.’

The Embryo. Gambling has been part of man’s ventures, likely since Eve gambled on the bite of an apple. I am not an ardent foe of gambling per se. In the United States we used to call it “destination gambling.” Decades ago gamblers would head out to only two states to try their luck. As a way out of the Great Depression, Nevada legalized gambling in 1931. Later New Jersey joined in, creating a very few cities across America—Atlantic City, Reno, Tahoe, Las Vegas—as significant destinations that featured gambling. Families and gamblers would pack up and go to these destinations with a fixed amount to lose, and then return home. State regulation and taxation of gambling is substantial. Even the IRS jumps in to claim taxes from gambler winnings.

The Public Courtship. State-sanctioned lotteries started the benign courtship of American consumers, enticing them with endless funds for education and all things necessary for the public good. In 1964 New Hampshire started the first state lottery. By 1994 no less than 37 states embarked upon state-run lotteries. In 1985 the first multi-state lottery games emerged, and by 1985 we had Lotto Powerball in numerous states. The “Lotto” game synergized customer interest by rolling-over weekly prizes to build large pots. With little thought, gambling has become as benignly imbedded in American routines as renting a DVD. It has now morphed into a political power-monger taking out one community after another.

The Godfather Weds Mother Earth. In 1988 the Indian Gaming Regulatory Act was a slick scheme—an absolute and intentionally arranged marriage—to promote economic development on Indian reservations. Congress knew this marriage of an otherwise egregiously incompatible couple, required a substantial dowry to attract an already wealthy groom, so it promised three federally exclusive gifts: 1) tribal casinos would have a monopoly, 2) they would be located on lands unregulated by state or local governments, and 3) tribal casinos would not be taxed. After all, the gaming industry across the country was doing well even while accountable to competition and taxes. Why else would the gaming industry bother with Indian tribes without these three vital perks?

The Doting Parents. To ensure homage, tithing and undying affection from the newlyweds noted above, the ever parental Congress also passed election acts, campaign finance acts, lobbying and taxation legislation that neatly omit two words: “Indian tribes.” Without these specifically included words, tribes are exempt

from legislation. No one knows this more keenly than Congress. Exempt from all these Congressional Acts, tribal casinos and tribal governments now lavishly and frequently reward our congressmen, and governors, and thousands of incumbents across the country at every level of government for feeding the growing monster of rampant tax-free gambling.

The Traveling. It's wide open now. On February 1st at a Senate Committee on Indian Affairs, George Skibine plainly explained to Senator Dorgan that yes, a tribe located anywhere in the country, could decide to open a Class III casino in mid-town Manhattan, NY. Mr. Skibine has a lengthy business title: "Acting Deputy Assistant Secretary for Policy and Economic Development in the Office of the Assistant Secretary – Indian Affairs at the Department of the Interior." Skibine tutored the Senate Committee on Indian Affairs by noting that nothing in the Indian Gaming Regulatory Act limits a tribe to its state or its homelands or any zip code that contains a potential "gaming market." The only obstacles are elected officials already feeding at this trough. These obstacles are easily overcome with a lovely cocktail of historical guilt blended with bountiful and unending campaign cash.

The Casino's Tax-Exempt Cousins. Once a tribal Class III casino opens, adjacent lands are quickly gobbled up to house a tribal hotel, resort, golf courses, gas stations, cigarette shops, retail and restaurant facilities, all operating under tax and local government-exempt regulations. This expanded land and economic base of tribal governments creates a defacto "reservation" in the heart of communities, and brings a new political force, backed by the federal government, to overwhelm local government land use and economic development goals. These satellite "reservations" destroy the local and regional tax economy while escalating a tribal government's voice in all new regions.

Reproducing At Will. An apathetic American public, hooked on gambling, pretends not to hear the cries of communities trying to keep out these beasts. One never sees an empty parking lot around a casino. As voters, we scream about political corruption while heading in to hit those slots. Gamblers don't see the economic suffocation of their own home towns or their own homes. They just see the hope of winning. But it's Congress that gets the cash. Americans, - well, we either demand that Congress end this travesty or suffer irreparable consequences. I don't do casinos and I don't vote for elected officials that are bloated from this nasty business. As an elected official myself, I took an Oath of Office to preserve and protect my government, not hand it over to separate, tax-free gaming governments corrupting my colleagues and eating up my country.

Elaine Willman is a City Councilwoman, in Toppenish, WA, and Chair of the Citizens Equal Rights Alliance (CERA), a coalition of community education organizations focused on federal Indian policy. She also authored a book entitled "Going to Pieces...The Dismantling of the United States." Reach her via email at <mailto:mailto:toppin@aol.com>

<http://www.newsday.com/news/printedition/opinion/ny-vpcig234672015mar23,0,5392597,print.story?coll=ny-opinion-print>

Pataki's smoke signals

Enforce tax on Indian cigarette sales

March 23, 2006

Fearful of protests by New York's Indian nations - as well as jinxing casino talks - Gov. George Pataki is ignoring yet another state law placing a \$1.50-a-pack tax on cigarette sales to the general public on tribal lands.

Not enforcing a law to placate specific groups sets a troubling precedent, not to mention that the governor has been unsuccessfully negotiating these same tax, land and casino issues with Indian nations for more than nine years. Although in the past we have supported Pataki's efforts to get the Legislature to repeal Indian tax laws, that hasn't happened. In light of that, Pataki needs a new strategy.

The issue is thorny because sales of cheap smokes is a major revenue source for Indian nations, including those on Long Island. Yet, the sales taxes would be a major revenue stream for the state. Higher taxes also mean lower smoking rates and fewer tobacco-related illnesses.

While Pataki is postponing enforcement, Attorney General Eliot Spitzer is threatening to prosecute wholesalers who supply the Indian stores with cigarettes lacking the required tax stamp. This conflict has trapped suppliers in the middle, and confused customers whose cigarette purchases are being rationed at some stores. Pataki's refusal to carry out the tax law has also prompted a federal lawsuit by Gristedes food stores against two Long Island nations, the Unkechaug and the Shinnecoeks, claiming Indian sales undercut their business.

Pataki should reverse course. Threatening to enforce the law will help accelerate negotiations between the state and the Indian nations on ways to share the tax revenue, the land claims and casino income.

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Laws are meant to be enforced

CNHI News Service

March 3, 2006

— When is a law a law? Apparently in New York it's not when it goes into the books, but when it starts getting enforced.

This Wednesday, a state law requiring Native American businesses to stop the tax-free sale of cigarettes to non-Indians at Internet sites and reservation stores goes into effect. But will it be enforced? Don't bet on it.

The state Department of Taxation and Finance says it won't enforce the new law requiring tribal businesses to pay the state's rising cigarette taxes. Instead, Commissioner Andrew Eristoff said he'll wait to see if the Legislature agrees with Gov. George Pataki to again delay enforcement by a year — a delay the Democrat-led Assembly already rejects. “This is a dangerous precedent,” said state Sen. Raymond Meier, a Utica Republican whose district includes the Oneida tribe's Turning Stone Casino. “If people are able to say that ‘We are going to ignore the law and try to negotiate a different legal framework with the state,’ it's an invitation to anarchy.”

Not quite, but business is expected to continue as usual and it will cost the state millions of dollars.

In 2005, 9.5 billion packs of cigarettes were sold in New York without being taxed or stamped. That was up from 4.3 billion in 2000, according Attorney General Eliot Spitzer. He estimates lost taxes to the state and New York City total about \$300 million a year, while costing off-reservation retailers untold customers. All we're looking for is a level playing field. In this area we've seen first-hand how reservation-based cigarette and gasoline business have flourished while those forced to collect taxes have struggled. We're seeing it right now in downtown Niagara Falls with Seneca Niagara Casino.

No one's asking Native Americans to pay taxes. The law provides coupons to allow Indians to avoid taxes on the cigarettes they buy for their own personal use. Fine.

We realize Pataki's administration doesn't want to see tires burning on Route 31 again, but at some point these unfair tax-free sales must stop. Wednesday seems like a fine time to start.

BIA sets timetable for new gaming regulations

Wednesday, March 1, 2006

The Bureau of Indian Affairs is moving quickly to develop new regulations for gaming-related land acquisitions, a senior official said on Tuesday. George Skibine, the director of the Office of Indian Gaming Management, said he is planning to send a letter to tribal leaders announcing the new rules. The BIA will then hold consultation sessions in March and April, publish a draft in the Federal Register by late May or June and finalize the proposal sometime in the summer, he said. Skibine hoped to send "Dear Tribal Leader" letter out as early as yesterday but he said associate deputy secretary Jim Cason is still reviewing the document. "My boss," Skibine said, "is going over the draft with a microscope."

"At this point we hope to have the letter out at the end of this week," he added. Officially, the timeline for the implementation of the regulations is being disclosed in a letter to the Senate Indian Affairs Committee. At a hearing last month, the panel pressed Interior Secretary Gale Norton to finalize the rules, which have been on hold for more than four years. Norton's response will be delivered on Friday, Skibine said..

Sen. John McCain (R-Arizona), the chairman of the committee, said the regulations were long overdue. He pointed out that it's been 17 years since the passage of the Indian Gaming Regulatory Act. The law generally bars gaming on land acquired after 1988. But its contains several exceptions, contained in Section 20, to allow tribes to build casinos if certain conditions are met. "In light of the astronomical growth in Indian gaming," McCain said, "I clearly time to revisit these exceptions."

The focus of yesterday's hearing was the two-part determination process, which allows tribes to build casinos on non-reservation land as long as the BIA agrees and the state governor concurs. Since 1988, only three tribes have successfully completed this process. Skibine's regulations will cover the two-part determination as well as the four IGRA exceptions for newly recognized tribes, restored tribes, tribes in Oklahoma with former reservations and tribes with a land claim settlement.

A draft of the rules, released in late January, indicates the BIA isn't planning on striking any new ground. For the most part, the proposal merely clarifies existing policy for gaming-related land acquisitions.

This approach is supported by the National Indian Gaming Association, the largest inter-tribal casino lobby. Mark Van Norman, the group's executive director, said the regulatory process -- rather than changing IGRA -- is the best approach to the debate. "We did have a consensus that it's better not to amend Section 20 of IGRA at this time," Van Norman said yesterday at the winter session of the National Congress of American Indians in Washington, D.C.

McCain, on the other hand, has proposed significant changes to Section 20 that would make it harder for tribes to open casinos on newly acquired land. S.1078, the Indian Gaming Regulatory Act Amendments, would eliminate the two-part determination process as well as three of the four exceptions. The Oklahoma exception would not be changed. "I did this because we believe that the proliferation of proposals by tribes with existing reservations and their developer backers to site casinos off-reservation on lands, to which the tribes often bear no historic relationship, is fostering opposition to all Indian gaming," McCain said at the onset of the hearing. But Van Norman noted that the two-part determination process is incredibly difficult to complete since only three tribes have won approval for off-reservation casinos in the last 17 years. "So the barn door is not off the hinges," he said at NCAI. He didn't address the use of the other exceptions.

At the hearing, Skibine suggested that some of the controversy is being fueled by rumor and innuendo. Some opposition groups have suggested as many as 40 tribes are seeking off-reservation casinos but he said only 13 have actually submitted applications under the two-part determination. "Historically, it hasn't been a problem," Skibine testified. He said a "separate list" of tribes seeking casinos under the other IGRA exceptions indicates 11 more applications.

Kerzner to Be Sold for \$3 Bln to Chairman, Investors

March 20, 2006

(Bloomberg) -- Kerzner International Ltd., operator of the biggest casino in the Caribbean, agreed to be sold for about \$3 billion to a group that includes the company's chairman and chief executive officer. The shares had their biggest gain in more than three years.

Chairman Sol Kerzner, CEO Butch Kerzner, shareholder Istithmar PJSC and other investors will pay \$76 a share, 8 percent more than the closing price on March 17. The company operates the Atlantis Resort on Paradise Island, the Bahamas, and manages the Mohegan Sun casino in Connecticut.

Revenue at the company has risen by at least 10 percent in the past two years on the popularity of the Atlantis resort. Kerzner is also among 11 groups seeking to build casino resorts in Singapore, one of Asia's richest cities. The buyout comes after two multibillion-dollar casino acquisitions last year, including Harrah's Entertainment Inc.'s \$6.9 billion takeover of Caesars Entertainment Inc.

"There is immense global consolidation in this industry," said casino-industry analyst Eugene Christiansen of New York-based Christiansen Capital Advisors. "Everyone is a target. No one is safe. That might be in their minds." Kerzner's shares jumped \$9.07, or 13 percent, to \$79.43 at 2:10 p.m., \$3.43 above the offer, a sign investors expect a higher bid for the company. The stock rose 11 percent in the year through March 17.

Investor Group

The investment group includes Dubai, United Arab Emirates-based Istithmar, Whitehall Street Global Real Estate Limited Partnership 2005, Colony Capital LLC, Providence Equity Partners Inc. and The Related Companies LP. Butch Kerzner said in the statement he and his father Sol will increase their ownership stake to 25 percent in the transaction.

The investor group will also assume \$599 million of debt, Paradise Island, Bahamas-based Kerzner said today in a statement. The sale price is 19 times the company's earnings before interest, taxes, depreciation and amortization. The deal will be completed by the middle of this year.

The company said it will seek better offers during the next 45 days. The special committee of the board that negotiated the purchase on behalf of the company will supervise that effort, and the Kerznors and Istithmar have agreed to cooperate in the process, the company said. If a better offer is received, the investor group will receive a breakup fee of about \$30 million and Sol and Butch Kerzner will provide transition services for six months following the sale.

Special Committee

The price and other terms of the transaction were negotiated by the special committee, which includes representatives of two "significant shareholders" that are not affiliated with the investor group, Kerzner said. The price for Kerzner is high, according to two measures frequently used to compare similar companies.

The investors are paying 26.8 times earnings. That's more than the 23.6 multiple of earnings of the six other casino hotel companies with market values between \$500 million and \$10 billion. The price is 3.91 times sales. That's also higher than the average for the group, which is 3.83.

The price for Kerzner using price-to-book multiples is lower than the group average. The Kerzner price is 2.44 times book, or balance sheet value, compared with the 4.73 group average. In the year ended Dec. 31, the company's revenue rose 16 percent to \$721.5 million. Net income fell 26 percent to \$50.6 million, or \$1.34 a share, from \$68.1 million, or \$2.01.

Atlantis, the Palm

Kerzner and Istithmar previously formed a joint venture to develop Atlantis, the Palm, in Dubai. The resort will include a 1,500-room five-star hotel and a 60-acre water park. The development is expected to cost about \$1.5 billion, according to regulatory filings.

Among the investors in the buyout is Los Angeles-based Colony Capital, an investment firm run by Tom Barrack, a former official in late President Ronald Reagan's administration. Under Barrack, Colony has been aggressively buying hotel and casino assets, spending more than \$12 billion since 1991 on properties like The Savoy Group and the Las Vegas and Atlantic City Hilton hotels. Last year, Colony invested \$1.3 billion in Accor, the world's fourth-largest hotel owner.

Kerzner, whose Atlantis resort is known for its 34-acre aquarium, said on Sept. 15 the more-than \$1-billion casino proposed for Singapore would have similar "iconic attractions." Kerzner spent about \$1 billion to develop the Atlantis more than a decade ago and is investing \$750 million to expand it.

Resorts International

The Atlantis has 2,317 rooms in three towers and is being expanded to include a 600-room all-suite luxury hotel. Kerzner was incorporated in 1993 as Sun International Hotels Ltd. to acquire the Paradise Island resort and casino from Resorts International Inc. The company's name was changed to Kerzner International in July 2002.

The special committee of the board was advised by J.P. Morgan Securities Inc. and Cravath, Swaine & Moore LLP and Paul, Weiss, Rifkind, Wharton & Garrison LLP. Deutsche Bank AG and Groton Partners LLC are serving as financial advisers and Simpson Thacher & Bartlett as legal advisers to the investor group.

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VIEWPOINT: Casino would be a bad bet

By Barb Lindsay And David Yeagley

Posted on Sun, Mar. 26, 2006

THOUSAND OAKS, Calif. - Hats off to the members of the Evangelical Pastors Fellowship for their vision and courage in speaking out publicly about how gambling expansion would hurt Grand Forks.

We thought Herald readers would like to know about the experience of communities in other states where tribal casinos have opened.

We would like to believe Congress did not intend for non-Indian state governments, lobbyists, politicians and wealthy casino management companies to be the principal beneficiaries of the “economic opportunities” envisioned by the Indian Gaming Regulatory Act of 1988. Nevertheless, the \$20 billion a year industry created by the act has left behind most of the people whom Congress did intend to help: the poverty-stricken Native American families across our nation.

Jack Abramoff is Exhibit A.

We would like to believe Congress remembers that citizens of the 50 states are Americans with the power to make and enforce laws. But Congress has given tribal sovereignty a primacy that has grown along with casino revenues even as the rights of U.S. citizens who are not enrolled members of a casino-owning Indian tribe have shrunk.

We would like to believe Congress did not intend “off-reservation” communities to be targeted as casino locations. But abuse of the law has opened the door to casino-tribe “reservation shopping” for prime gambling-facility venues.

That’s why both Sen. John McCain, R-Ariz., and Rep. Richard Pombo, R-Calif., are sponsoring legislation to address this critical problem and now are holding hearings in Congress. And Rep. Mike Rogers, R-Ala., is sponsoring a bill that would place a moratorium on the construction of any new tribal casinos for two years’ time, while this issue is studied by Congress. These bills deserve Grand Forks residents’ active support.

We would like to believe Congress did not intend federal “trust” status of tribally purchased land should enable autonomous Indian gambling principalities to dominate the economy and social character of surrounding communities. But “sovereign immunity” shelters tribal trust land from taxation and virtually all state and local regulation, leaving it responsible only to Indian leaders and their out-of-state casino investors.

We would like to believe Congress did not intend tribal governments to make political contributions bank-rolled with tax-exempt casino profits, without regard to contribution limits that apply to every other for-profit enterprise. But the Federal Election Commission has given a free pass to casino tribes and, indirectly, their non-Indian corporate backers to influence the policy decisions upon which the tribes’ fast-growing casino monopoly depends.

The casinos also contribute to a highly addictive behavior that severely strains social services especially when tribal casinos let 18-year-olds gamble, as they do in many states such as Washington and California.

Sadly, the fact remains that the vast majority of tribal members across our nation currently are not seeing any real economic benefit from casino riches and abuses. In effect, they, together with the Americans whose communities have fallen prey to “reservation shopping,” are the victims of a well-intentioned congressional act that has been superseded by the Law of Unintended Consequences.

We fervently hope that a majority vote in Congress will take place soon because comprehensive reform urgently is needed. We salute Grand Forks City Council members Dorette Kerian and Eliot Glassheim for speaking up on behalf of Grand Forks’ future, especially for the sake of local young people. Their future is in residents’ hands.

Lindsay is national director and spokesperson for One Nation United, a nonprofit group dedicated to the reform of flawed federal Indian policy. Yeagley, an enrolled member of the Comanche Nation of Lawton, Okla., is a musician, scholar and writer.

Residents fight tribe over road

Jeff Horwitz, Staff Writer
San Bernardino County Sun

Residents of a Highland neighborhood are crying foul after county officials moved to give the San Manuel Band of Mission Indians access to a road following a series of private negotiations. The tribe's director of governmental operations, Jerry Peresa, said the tribe was justified in negotiating directly with the county because it is a sovereign state. It needs to use Piedmont Drive to service 40-odd homes being built for tribe members, he said, not for its casino.

"Piedmont was built to accommodate residential traffic," Peresa said. "I'd almost suggest this is much ado about nothing." But Bob Evans, who lives in a home near the casino's western end, said it looks to be about politics. "My fear is that there are supervisors who have been swayed either through political contributions or other influences from the tribe," he said.

An item that would grant the tribe use of the road is on the Board of Supervisors' Tuesday agenda, but neither the Department of Public Works nor the County Counsel's Office returned calls seeking comment. Three of five supervisors did not respond to messages left with their staff, and a fourth, 5th District Supervisor Josie Gonzales, would not comment.

Third District Supervisor Dennis Hansberger said he believed the tribe was trying to substitute its political muscle for neighborly behavior. "Jerry Peresa talked to me and I said, 'If you want to use the road, you need to work with the neighborhood,'" Hansberger said. "The next thing I heard, I began to get lobbied by my colleagues saying members of the tribe had been lobbying them."

The conflict began a year ago when the tribe built a road joining its property to the dead end of Piedmont Drive without the county's permission. Neighbors complained to Hansberger's office and the Department of Public Works, which blocked off the street with concrete beams. Peresa said the county's actions were inappropriate. "I took it as a sad day in our relationship when it came to putting up barricades," he said.

Shortly thereafter, Jim Gondos, a resident whose house borders Piedmont Drive, filed papers with the county seeking to have the county abdicate its claim to the street, permanently preventing the tribe from using the road. A commission led by David Wallsten of the Department of Public Works' transportation-design division recommended the request be approved last year. But on Monday, the Department of Public Works told Gondos that recommendation had been overruled after a month of negotiations with the tribe.

The county's deal with the tribe would stipulate that only residential traffic be allowed on Piedmont, San Bernardino City Councilman Neil Derry said, minimizing the congestion a new road might cause. Although Derry does not have a position on giving the tribe access to the road, he is convinced the county does not have the legal authority to give the reservation access to the land over the protests of neighbors. "What the county is doing right now is giving a public easement for private use," said Derry, a former planning commissioner. "That's not my opinion - that's the law," Derry said.

Given that residents filed paperwork asking the county to abandon its claim to the land a full year ago and paid the requisite fees, Gondos said it was unfair for the county to have dismissed his request without a hearing.

Peresa said that circumventing neighborhood complaints was appropriate, however, in light of the tribe's stature. "We're a major employer, we're very involved in the community," he said. "So I think the county Board of Supervisors rightly was sensitive to the tribe's request for access." Hansberger, the only supervisor whose district is directly affected by the deal, said the tribe had no shortage of access to his colleagues.

In the past few months, Hansberger has seen the tribe's representatives in the board's chambers on several occasions, he said, and "they weren't meeting with my staff." Still, Hansberger said, he was surprised that other supervisors would attempt to intercede in a regulatory matter located squarely in his district. "It's not their issue," Hansberger said.

Since 2000, the tribe has donated \$4,000 to Gonzales, \$4,600 to 2nd District Supervisor Paul Biane, \$3,450 to Board Chairman Bill Postmus and \$7,900 to Hansberger. Although Hansberger has received more from the tribe than any other supervisor, he said, "I have a duty and responsibility that doesn't stop at who's been nice to me."

Gondos, who is an inspector for the San Bernardino Parks and Recreation Department, said he did not know why the Department of Public Works would have reversed course on application for the county to give the small stretch of pavement back to the residents who live by it. He said he suspects the tribe's political muscle had something to do with it, however.

"Somewhere, it's a done deal," he said. "They've got a direct line, and we can't get through."

Karuk Treaty controversy continues in Northern California

Liz Bowen

SCOTT VALLEY, Calif. – An ad hoc group is taking exception to the validity of the Karuk Tribal's federal recognition and is requesting an inquiry by the Siskiyou County Board of Supervisors to Congress. After leaders of the Karuk Tribe announced on Dec. 6, 2005 to the county Board of Supervisors that it is proposing a new casino, in Yreka, an ad hoc committee organized and will be presenting information to the county supervisors at its Feb. 21, 2006 meeting. The ad hoc group is opposed to the new casino proposal for a number of reasons and can back those reasons up with documentation and facts. The proof that the Karuks are using another tribe's treaty, according to the ad hoc leaders, shows that the Karuks received federal recognition incorrectly.

Supreme Court ruling documents, congressional testimony and historians utilized by the Bureau of Indian Affairs and the National Indian Gaming Commission are the basis for the proof that the Karuk Tribe received its federal recognition through a lie.

In recent months, the Karuk leaders have been claiming that Yreka is an aboriginal area to the tribe. But throughout the last six years, the Karuk's website showed that their aboriginal territory was based from Seiad to below Orleans to Bluff Creek. Yreka was not included in that area. Now the Karuks are claiming most of Siskiyou County from Scott Valley, Yreka and Shasta Valley as it lands. Members of the Shasta Nation are incensed, because the area clearly was "not Karuk territory," according to Karol Purcell, a member of the ad hoc committee.

The two tribes speak a very different language, which was first documented back in 1851 by George Gibbs, who wrote the journal and documented treaties with the federal government. The first congressional testimony on the territories of the tribes in Northern California came through Gibbs, who rode with Indian Agent, Redick McKee. The Karuk, then known as Coretem and later as Karok, was a party to Treaty Q signed on Oct. 6, 1851 at Camp Klamath (Weitchpec) and a supplement treaty signed a Camp Coretem, which is the mouth of the Salmon River, on Oct. 12, 1851.

It wasn't until McKee's group reached Scott Valley on Nov. 4, 1851 that a "treaty of peace and friendship was made and concluded" on Nov. 4, 1851, with a dozen chiefs of the Shasta Nation. This was documented as Treaty "R."

In obtaining its federal recognition 20 years ago, the Karuk leaders used the Shasta Nation's Treaty, which was "R" in submitting its application to the Bureau of Indian Affairs.

But the proof of documentation goes deeper than the first signing of Treaties Q and R.

In the December 2005 meeting of the Karuks with the Siskiyou County Board of Supervisors, the Karuk's attorney quoted a 1910 census of where Native Americans were living along with their tribal connection; and said that Karuks had immigrated to the Yreka area. The attorney also said this was the first time a census was done on the Indians.

The ad hoc committee, in doing its research, quotes an 1886 census, where the different ranches of the Hoopa Valley Indians were numbered, which included the "Karoks."

In the Kelsey Census of 1907, a few Karoks are counted in Scott Valley, specifically in Greenview and Etna, but were not found in Yreka.

In the 1910 Census, Karok are again counted in Scott Valley. The Indians in Yreka were listed as “Shasta, Wintu and Pitt.”

“The 1910 Census is available for viewing on microfilm at the Siskiyou County Library in Yreka,” said Purcell. Then in the 1925 Supreme Court case, number 262, Steve Super and Benjamin Wilder vs Hubert Work, it shows that the Karok were claiming Treaty Q, not Treaty R. Super was a Karok and Hubert Work was the U.S. Secretary of Interior.

“This is just a small sample of the documentation showing the fraudulent use of Treaty “R” by the Karuk Tribe,” said Purcell.

The ad hoc committee included legal documentation from the last 30 years to show that the Karuk signed Treaty Q, which does not give them aboriginal access to the Shasta Nation lands encompassing most of Siskiyou County and into Oregon. It also shows that the Karuks jumped ship at some point and began using Treaty “R.”

In Oct. 2004, the National Indian Gaming Commission denied the Karuks its Indian Gaming exemption for a casino proposal on lands taken into trust after 1988. In that document the NIGC referenced the use of Treaty “R” by the Karuks, which was actually signed by the Shasta Nation on Nov. 4, 1851 in Scott Valley.

Senecas buy 250 acres in Lewiston for golf course

By NANCY A. FISCHER
NEWS NIAGARA BUREAU
3/3/2006

LEWISTON - The Seneca Niagara Gaming Corp. is making an investment of \$2.1 million for vacant land in Lewiston to keep tourists in town a little longer.

After nearly a year of speculation about "unnamed private developers," Seneca Nation President Barry E. Snyder Sr. unveiled his plans Thursday for a "world-class, championship golf course" in the town.

The 18-hole course would be developed on 250 acres of land that the nation recently purchased from Old Creek Links Development. It is bordered by Robert Moses Parkway, and Pletcher and Creek roads.

Unlike other Seneca projects - including the Seneca Niagara Casino & Hotel in nearby Niagara Falls - this development will remain on the tax rolls. It also will be open to the public, Snyder said at a morning news conference. "Seneca Niagara Gaming Corp. is happy to be one of the newest landowners in Lewiston," Snyder said. "This will be a world-class attraction. We are prepared to invest \$10 [million] to \$15 million.

"Our vision for a championship-level golf course will add to the impact we already have on the local economy. It will provide us with a tool to attract even more visitors from the outside and keep them in Western New York for an even longer period of time."

Snyder said that although the Senecas are prepared to pay taxes, they will, like any other new business looking to expand into the area, ask the Niagara County Industrial Development Agency for tax relief.

John Pasqualoni, president and chief operating officer for Seneca Gaming Corp., said, "I am a resident of Lewiston, and to say I'm excited about this is an understatement." Pasqualoni said the corporation has issued a national request for proposals from some of the most highly recognized golf course designers in the business, including Robert Trent Jones, Pete Dye, Jack Nicklaus and Greg Norman.

Nearly a decade ago, the town started planning for a championship course that would bring professional tournaments and put Lewiston on the map as a destination for golf. But costs proved beyond the reach of the town, and were scaled back to a more modest plan for a municipal course.

Since Fred Newlin was elected supervisor in 2003, he has said he doesn't want the town to be in the golf course business.

"Private development is something I've always believed in," Newlin said. "This project marks one of the largest private capital investments of any town in Western New York. It shows that outside business believes in Lewiston's future. This was a competition. The Senecas could have placed this course in any number of neighboring communities."

Snyder said there is no name for the course or any plans for when to break ground. The Senecas do plan to have a significant clubhouse and driving range.

Newlin said the Seneca Nation will have to submit plans to the Town Planning Board, like any other developer.

Last year, before a referendum to vote on the town buying the land for the course, developer Michael Dowd said his Old Creek Links group had an offer and was considering selling the land to a private developer.

Dowd had originally planned to develop 40 acres of the land for residential development and the rest would become a town golf course. Now all the land is expected to be used for the course to create longer fairways and attract national tournaments.

The Seneca Gaming Corp. bought the property for \$2.1 million last month from Old Creek Development. Dowd gave up his option to develop homes, but his Old Creek Links group made nearly a \$1 million dollar profit on the sale by providing land that is ready to go for a golf course.

“When I started this, it was municipal all the way,” Dowd said. “I had no hint that the Seneca Nation would be interested, but this is nothing like the town golf course. This will be a destination course.”

Disenrolled Pechanga members look to U.S. Supreme Court for help

By: DEIRDRE NEWMAN - Staff Writer

An appeal has been filed with the U.S. Supreme Court asking the justices to decide whether a case involving disenrolled Pechanga tribal members can be heard in a California court.

Thursday was the deadline to file the appeal, and the appeal documents were received by the Supreme Court on Thursday morning, said Brian Unitt, one of the attorneys working on behalf of the plaintiffs.

The original lawsuit was filed by 11 disenrolled members of the Pechanga Band of Luiseno Indians on behalf of more than 130 family members. The suit tried to stop the disenrollment from happening. When it occurred anyway, a second lawsuit was filed last March seeking damages for the financial losses of the disenrolled members, which, to date, stands at more than \$50 million, said Jon Velie, another attorney working on the case who specializes in tribal law and sovereignty.

This second lawsuit is on hold, pending the Supreme Court's decision, Unitt said. If the Supreme Court decides to hear the appeal and rules that the Superior Court has jurisdiction to hear the first lawsuit, the plaintiffs' attorneys would file a motion to combine the two lawsuits, Unitt said.

A lot is riding on the Supreme Court's decision on whether to hear the appeal, Velie said.

If the case is heard, and the court rules in the plaintiffs' favor, the decision could set a precedent for other beleaguered Indians who have been disenrolled from their tribes around the country, Velie said. Conversely, if the justices opt not to hear the case, it would leave some Indians without a venue to hold tribal officials accountable, he said.

Pechanga Tribal Chairman Mark Macarro could not be reached for comment Thursday via phone or e-mail. He has said previously that the sovereignty of tribes allows them to determine citizenship.

The appeal is a test of a federal statute, known as Public Law 280, which gives some state courts, including California, the authority to interpret tribal law in civil and criminal matters. It's the interpretation of Public Law 280 on which the appeal hinges.

This law, as Velie sees it, gives individual Indians the right to sue other Indians in the California court system. A subsection of this law states that tribal laws must be given "full force and effect," which is exactly what the plaintiffs are asking for, he said. They want the tribal constitution, which conferred tribal membership upon them, to be upheld.

"The other side arrogantly argues that they are the tribe," Velie said. "They are no more the tribe than our clients are. ... They're trying to say tribal laws can't apply and there's no court in which you can say they do."

A Riverside Superior Court judge agreed with the plaintiffs that their case could be heard in that court. However, when the defendants appealed, the 4th District Court of Appeal rejected that argument. The plaintiffs then appealed to the California Supreme Court, which in November rejected taking on the case, Unitt said.

The two attorneys are hopeful that the U.S. Supreme Court will decide to hear the case because it involves the federal statute, Unitt said. If the court decides not to, it could deliver a devastating blow to Public Law 280, Velie said.

The U.S. Supreme Court does not have a deadline by which to decide whether to hear the case, Velie said. But he anticipates a decision within two to three months, he said.

The second lawsuit, filed in March 2005, accuses 30-plus tribal members of influencing the disenrollments. As part of that second lawsuit, the plaintiffs are seeking a minimum of \$38 million in damages, based on the \$15,000 monthly payments each adult member received while still in the tribe. Those payments were discontinued after they were disenrolled.

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http://www.boston.com/news/local/massachusetts/articles/2006/03/25/us_ruling_on_tribe_may_affect_slots_vote?mode=PF

US ruling on tribe may affect slots vote

Foes fear recognition could lead to casinos

By Scott Helman, Globe Staff | March 25, 2006

The US government could grant initial federal recognition next week to a Cape Cod Indian tribe that has expressed interest in building a casino in Massachusetts, a decision that adds a new twist to the Beacon Hill debate over whether to allow slot machines at racetracks.

The Mashpee Wampanoag tribe, which has about 1,500 members, is expected to learn Friday if it will receive preliminary recognition, a designation that, if made final, would make the tribe eligible for a host of federal benefits, including the right to build a casino if slot machines were made legal in the state.

The pending decision in Washington means that the upcoming Massachusetts House vote on slots, set for April 5, could have broader implications, potentially triggering a far-reaching expansion of gambling with the state's first resort-style casinos.

The Mashpee Wampanoags and other local tribes are eager to build casinos, and commercial gambling operators such as Harrah's are eager to help.

Under the 1988 Indian Gaming Regulatory Act, a recognized Indian tribe has the right to build a casino if gambling is legalized in the state where the tribe is located.

Thus if the Massachusetts Legislature allows the addition of slot machines at the state's racetracks, it would open the door, legally, to Indian casinos.

Slots opponents are seizing on the impending decision on the Mashpee Wampanoags to warn about the consequences of expanding gambling, and some supporters are calling for a broader conversation about the likelihood of casinos opening in Massachusetts.

The House may take up the slots bill the Senate passed last fall, which would allow each of the state's four racetracks to install up to 2,000 slot machines at each track. The tracks are Wonderland Greyhound Park in Revere, Suffolk Downs in East Boston, Raynham Park in Raynham, and Plainridge Racecourse in Plainville.

To state Representative Daniel E. Bosley, the Legislature's leading opponent of gaming expansion, legalizing slot machines would effectively open the floodgates, potentially allowing the Mashpee Wampanoags and several other tribes to build casinos resembling Foxwoods and Mohegan Sun in Connecticut.

"You can't talk about this and say, 'Well, we're just putting 2,000 slot machines at four racetracks,' because it doesn't work that way," said Bosley, a North Adams Democrat and House chairman of the Joint Committee on Economic Development and Emerging Technologies. "You can't say, 'We're not doing casinos.'"

Bosley is citing his concern about casinos as he works to persuade House colleagues to shoot down slots next month.

To be sure, even if the House passes the slots bill, the state is still a long way away from having its first Indian casino.

For starters, Governor Mitt Romney's probable veto means that supporters would need a two-thirds majority in each chamber, something they may not have in the House. (Romney himself expressed concerns to reporters last fall that legalizing slots could lead to Indian casinos.) In addition, the Indian tribes would have to find land to build a casino and overcome several regulatory hurdles.

State Senator Michael W. Morrissey, who has championed gambling expansion as a means to raise additional revenue, believes that such a scenario is far off and shouldn't get in the way of the state allowing slot machines.

"I don't think it is, right now, a present-day, realistic concern," said Morrissey, a Quincy Democrat.

Proponents of adding slot machines at the tracks argue that it would save the struggling racing industry, preserve thousands of jobs, and bring in millions of new tax dollars for cities and towns.

Those opposed say the financial windfall is grossly overstated and that the state will see social costs, such as increased crime.

State Representative Robert M. Koczera, a New Bedford Democrat and a supporter of expanded gaming, believes that state officials should recognize the rights afforded Indian tribes under federal law and bring local tribes into the debate, to ensure that Massachusetts taxpayers get a fair deal.

Koczera worries that if the state doesn't confront the possibility of casinos now it will have no say and get little or no tax revenue if an Indian tribe succeeds in building one on its own.

"My feeling is, we know we have the Indian Gaming Act that is in play for federally recognized tribes, [and] we ought to set forth very clearly what we want to do," he said.

For their part, the Mashpee Wampanoags acknowledge that they are mulling a casino but aren't saying much more.

"It would obviously be something the tribe would look at if they were recognized," said Scott Ferson, a spokesman for the tribe.

Ferson said the tribe has no formal plans for a casino, because gambling isn't legal in Massachusetts and they haven't been recognized by the federal government.

Glenn Marshall, chairman of the tribal council of the Mashpee Wampanoags, said his immediate worry isn't a casino but simply securing federal recognition. He pointed out that gambling hasn't been legalized in the state.

But it's clear that the Mashpee Wampanoags are very interested in seeing expanded gambling. They paid a high-powered Boston lobbying firm, Quinn & Morris, \$120,000 last year to represent them at the State House. And Herbert Strather, a Detroit real estate and casino developer, has financed the tribe's bid for federal recognition.

The Mashpee Wampanoags aren't the only Indian tribe weighing a push to build a casino. Their cousin tribe, the Wampanoag tribe of Gay Head (Aquinnah), a federally recognized nation on Martha's Vineyard, has tried for years.

“We have to find out what the state’s going to do,” Donald Widdiss, chairman of the Wampanoag tribe of Gay Head (Aquinnah), said this week. “We have a vested interest” should expanded gambling become legal, he said.

Several other local tribes, at least one of which has already received backing from a commercial casino developer, could follow the same path if they win federal recognition.

Harrah’s, one of the world’s biggest casino companies, is a partner with Indian tribes in four casinos nationwide and is working with the Narragansett Indian Tribe in Rhode Island to get a casino built in West Warwick, said Jan Jones, the company’s senior vice president of government relations.

Asked whether Harrah’s would jump at a similar opportunity in Massachusetts, Jones said: “Oh, my God, yes. It’s very, very good business, even when you are the operator and they are the owner.”

Scott Helman can be reached at shelman@globe.com.

Casino wastewater issue stinks

Friday, March 24, 2006

By Sean Rabé (srabe@ledger-dispatch.com)

This newspaper has gone on record in the past as opposing the proposed Buena Vista casino. One simple reason for doing so is that we can't possibly think of a worse place for any large commercial operation that will create that much traffic on such a small county road.

After sitting through Tuesday's United States Environmental Protection Agency's wastewater discharge permit hearing we have yet another reason to oppose this casino.

Simply put, the entire wastewater discharge matter stinks.

There are a number of issues that stand out regarding the permitting process that we completely disagree with.

How can the EPA issue a permit that is based entirely on an environmental study that the governor himself found to be inadequate and the tribe has already rescinded? The tribe is currently undergoing a second Tribal Environmental Impact Report to address numerous shortcomings identified by various public entities. And yet, the EPA plans to use this document to base its permit on.

We find that completely dumbfounding. It's basing a permit on a non-existent study.

We think that at the very least the EPA should postpone its decision on the permit until the TEIR is completed. Sure, it will delay the permitting process. Sure the tribe will probably need to reapply for its permit. But it only makes sense for such an important permit to be based on the most up to date information.

Another issue we find very disturbing is the EPA's refusal to allow the state's Regional Water Quality Control Board to take regulatory jurisdiction over the proposed plant. Rather than having an agency with much more manpower in this region watching over the plant the EPA proposes to monitor the plant itself - apparently using its San Francisco office as a home base.

We aren't disparaging the EPA in anyway. We're sure that the federal agency's engineers are just as qualified and just as dedicated as the RWQCB's.

But doesn't it make more sense for an agency with more feet on the street, with more of a vested interest in what happens locally, to watch over the plant?

Then there is the potential for pollution from the plant making its way into the tributary where the treated wastewater will be discharged, as was the case with Thunder Valley.

Wastewater treatment has come a long way in the past few years. Oftentimes the water discharged from the plant is almost as clean as the water coming from your tap. And, if you use well water, there is a chance that the water is actually cleaner.

But the tributary that the plant will discharge to eventually makes its way to Jackson Creek - the same creek

that the city of Jackson already discharges its wastewater into. The same creek that has caused Lake Amador to become so polluted that nearby residents can no longer drink from it. They now must use bottled water.

And the EPA may allow more treated wastewater to be added to that creek. We think that is a bad idea - no matter how clean the treated wastewater may be.

And while the EPA may impose fines on the off chance that the plant does pollute the creek, those fines are a drop in the bucket compared to the amount of money the casino will be hauling in. It's almost the cost of doing business.

Combining these issues with the litany of other impacts the casino would bring like increased traffic, increased crime, the safety issues that occur with so many people on such a narrow road at one time, the effects of alcohol-impaired drivers leaving the casino, water, noise pollution, visual pollution, etc., this newspaper even more steadfastly opposes the Buena Vista casino.

We implore the EPA to step back, look at the problems that granting the discharge permit would cause and deny the permit. At a minimum, the EPA should wait until the new TEIR is released so it has the most up to date information to make a reasonable decision with.

Pombo questions BIA on off-reservation gaming

Thursday, March 16, 2006

A key question emerged at the House Resources Committee hearing on Wednesday: Of the more than 400 tribal casinos in existence, how many are on land taken into trust after the passage of the Indian Gaming Regulatory Act? According to Rep. Richard Pombo (R-California), the chairman of the committee, far more than the people think. Citing news accounts, including an analysis by Indianz.Com, he said 38 casinos -- out of the 405 in operation -- are located on newly acquired trust lands. "We have established that nearly 10 percent of the casinos operating today are operating on land that was not in trust as of 1988," Pombo said.

Pombo used the figure to draw attention to what he said were misleading statements made by federal government officials. At recent hearings, and at public conferences, the Bureau of Indian Affairs and the National Indian Gaming Commission have repeatedly referred to the small number -- three, to be exact -- of off-reservation gaming establishments approved since 1988.

The National Indian Gaming Association, along with tribal leaders, have cited the same number in downplaying the controversy surrounding off-reservation gaming. But Pombo said the statistic does not represent reality. Through exceptions in Section 20 of IGRA that apply to Oklahoma tribes, newly recognized tribes, restored tribes and tribes with land claim settlements, he said the BIA and the NIGC have approved far more casinos than publicly acknowledged. "To continue to go back to your figure of three is an inaccurate and misleading statement," Pombo told George Skibine, the head of BIA's Office of Indian Gaming Management.

Skibine, however, put his comments -- made to the Senate Indian Affairs Committee last month -- into context. He said he was referring only to the number of casinos approved under the two-part determination process outlined in Section 20. He also said he couldn't confirm or refute the 38 figure, but said the BIA has approved 32 casinos on land taken into trust after 1988. The responses did little to impress Pombo, who introduced a bill last week that essentially eliminates Section 20 in order to make it more difficult for tribes to open casinos on land acquired after 1988. His goal is to stop the so-called practice of "reservation shopping" that has angered local communities and led to disputes among tribes.

The Bush administration hasn't taken a position on the bill, said Jim Cason, the associate deputy secretary at the Interior Department. But he said he doesn't necessarily begrudge tribes for looking for the most lucrative place to open a casino. "If I were an Indian businessman and I were a landless tribe ... I would go shopping for the best property I can find," Cason told the committee. "It's just being smart about the process."

Skibine is currently drafting new regulations to govern the Section 20 process. He hopes to publish a draft in the Federal Register by late May or June and finalize the proposal sometime in the summer. The effort runs counter to Pombo's bill and another bill introduced by Sen. John McCain (R-Arizona). The regulations assume that no changes will be made to Section 20 of IGRA. As written by Congress, IGRA bars gaming on lands acquired after 1988. But to account for special situations, Section 20 contains three exceptions for former reservations in Oklahoma, newly recognized or restored tribes and tribes who settle their land claims.

If a tribe cannot meet any of the exceptions, Section 20 provides a "two-part determination" process that requires approval from the BIA and concurrence by the state governor. Since 1988, three tribes have successfully completed this process while at least seven have been rejected, either by the BIA or by the state.

About a dozen tribes have two-part determination applications pending before the BIA. But far more tribes are seeking to open casinos through the other Section 20 exceptions, Pombo said, citing at least two dozen such proposals. Gaming opposition groups put the figure as high as 40 to 50.

The National Indian Gaming Commission is trying to get a better handle on the situation, said Chairman Phil Hogen. The agency is creating an Indian lands “database” to determine whether the 400-plus casinos are operating legally and is developing regulations to require tribes to certify the legality of their casino sites.

Also, the Interior Department’s Inspector General has looked into a special situation that has arisen in Oklahoma. A small number of tribes, most notably the Chickasaw Nation, have acquired land in trust after 1988 without stating the land will be used for gaming. Only later does the tribe open a casino, enabling the tribe to avoid a lengthy review process. The Inspector General found at least 10 instances in which tribes skirted the law.

Posted on Thu, Mar. 23, 2006

Casino deal worries official

Massillon law director tells city leaders to get advice from expert in Indian gaming before signing pact

By Rick Armon

Beacon Journal staff writer

MASSILLON - The City Council had better be careful before inking a deal -- potentially a rotten one -- that would allow an Indian tribe to build a casino resort in town, Law Director Pericles Stergios said Wednesday.

In a strongly worded letter to council members, Stergios raised serious doubts about an "intergovernmental agreement" pending before the council, and he advised city leaders not to bow to pressure to sign the pact before receiving advice from a legal expert in Indian gaming.

"We know nothing about the Indian Gaming Regulatory Act, nothing about casino gaming revenue agreements, and nothing about what a tribe may legally or not legally do on this property if in fact it ever acquires title," he wrote.

The Eastern Shawnee tribe of Oklahoma and local developer Steve DiPietro have proposed building a resort that would include a casino, restaurants, a hotel and a themed shopping mall. The resort, which would be built in phases, is projected to eventually create about 3,000 jobs and attract about 2.2 million people a year, according to paperwork given to the city.

The tribe wants the council to sign a deal by the April 3 council meeting. The proposal says the tribe would pay 2 percent of its net revenue to Massillon and other local governments. The tribe, though, could pay less until it eliminates debt incurred in buying the land and building the resort.

Stergios, who noted he is not opposed to a casino, questioned whether the agreement is a good deal for Massillon. He proposed that the council approve a resolution expressing its support and agreeing to negotiate the financial terms later. "How do we know that any of the estimated revenues or estimated jobs put forth by the tribe are accurate?" Stergios wrote. "How do we know that these estimates even come from the tribe?... These numbers could be complete fiction. How come we have not seen any sort of impact study or statistical analysis justifying these numbers."

Terry Casey, a Columbus lobbyist working with the tribe, said he has been trying to talk with Stergios for several days to answer his questions. "We wish the law director would spend more time getting facts and information than writing letters and being negative on the potential of thousands of jobs in Massillon," Casey said.

Councilman Tim Bryan said he's not opposed to hiring outside legal counsel for advice, and he suggested that the city pay for its own economic impact study. He also said he favors the casino proposal and would like to see a deal worked out by April 3 if possible. "I think the benefits outweigh the negative effects, and I think the negative effects can be dealt with," he said.

Casino gambling is illegal in Ohio. But the tribe, which has filed a land-claim lawsuit against the state, is lining up communities interested in gaming resorts. Lordstown, Monroe and Botkins have signed agreements with the tribe in case casinos become legal in Ohio or the tribe can negotiate a settlement with the state.

Opinion

Front Page > Opinion > Buffalo News Editorials

Let state pay for casino roads

Buffalo should not bear extra costs for burden it had little say in

3/31/2006

Buffalo is one of the country's poorest cities. It is under the supervision of a financial control board. It is unable to give raises to its employees. It is now being asked to pay \$6 million for infrastructure work to benefit a casino it never sought. The mayor and the Common Council should say, "No, thanks."

The city cannot afford to take on this kind of work. What is more, other interested parties can, including the state, which brokered the casino deal without the consent of Buffalo residents, and the Seneca Nation of Indians, which will reap untold millions from this casino.

The timing of the request from the Senecas, who are preparing to build the casino east of HSBC Arena, is at least curious. It came in a letter dated the day Nation President Barry E. Snyder criticized a Council push for an agreement limiting the amount of tax-exempt land the tribe could acquire downtown.

We don't much like the idea of a casino in downtown Buffalo, for that and other reasons. It's not a tourist destination, though that could change to some degree. Many knowledgeable observers believe most players will come from the city. Nevertheless, a casino appears to be in the cards, whatever the reservations. If it is, then infrastructure work, including new traffic lights, signage and sewer work, is necessary. Just bill someone other than city taxpayers

Beecher's Complaints Against Mohegans Are Gaining Attention

Supreme Court To Hear Case Of Tribe's Ex-investigator

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Brad Beecher talks about what he witnessed when he worked with the Mohegan Tribe during an interview Friday Dec. 3, 2004.

Bradley W. Beecher is a happier disgruntled ex-casino employee these days.

His case against the Mohegan Tribe is headed to the state Supreme Court, and the Office of the Chief State's Attorney is looking into Beecher's complaint about an improper relationship between a tribal official and a state court employee. Tribal representatives and state officials are logging onto the Web site (www.thetisconsulting.com) that Beecher and his wife, Katherine, created to further their mission of exposing what they say are the dangers of tribal sovereignty and the inadequate regulation of tribal casinos.

"It's a \$20 billion-a-year business," Beecher said. "In Connecticut, there's over 20,000 people working in casinos without protection. People are going to have to make some real choices as these places become more critical to the local economies."

Beecher had worked as an investigator for the Mohegan Tribal Gaming Commission after retiring from the state police, where in his last assignment he commanded the Casino & Licensing Unit. He left Mohegan Sun in April 2004 after the tribe told him it would be reducing his position from full time to per diem, or "as needed." He said he had fallen out of favor because he was critical of regulatory practices and refused to conduct investigations off-reservation.

The Mohegans sought a restraining order against the Beechers in Superior Court, saying the couple tried to extort "a million dollars, tax-free" from the tribe in a series of phone calls and e-mails following his departure. They said Beecher had threatened to divulge confidential information. The lawsuit was resolved in December 2004 when the parties agreed that Beecher could speak publicly about his employment experience but could not talk about specifics.

Six months later, Beecher tried to sue the Mohegans in the same court, claiming the tribe took him to court to silence him while completing an agreement to buy the Pocono Downs racetrack in Pennsylvania. Judge Robert E. Beach dismissed the suit when the Mohegans claimed the state lacked jurisdiction because of the tribe's sovereign immunity.

The Beechers appealed, and the state Supreme Court agreed to hear the case along with several others involving sovereign immunity.

Tribal Chairman Bruce W. "Two Dogs" Bozsum and Vice Chairwoman Lynn Malerba had little to say about Beecher during an interview earlier this week.

"The more I see and read about what he's doing out there, the more it sounds like he's tooting a horn, not blowing a whistle," Bozsum said.

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Beecher's attorney, John Williams of New Haven, filed a brief March 8 in the Supreme Court case. Claiming Beecher should have been able to sue the tribe in state court after the tribe had sued him in that same court two years ago, Williams argued that the tribe's sovereign immunity should not apply.

"No court ever before has permitted a tribe to use a state's court as a weapon to inflict malicious injury upon innocent victims and then evade responsibility in that very court for the consequences of its actions," Williams wrote.

Attorney Glenn E. Coe said he was preparing a brief on behalf of the Mohegans. State Attorney General Richard Blu-

menthal said he plans to file a “friend of the court” brief, and the Mashantucket Pequot also are expected to weigh in.

Meanwhile, an investigator for Chief State’s Attorney Christopher Morano has interviewed Beecher and at least three other people about Beecher’s claim that a former co-worker routinely obtains access to nonpublic information from a friend in state Superior Court who “fixes” traffic tickets in exchange for free meals or show tickets at Mohegan Sun.

Morano acknowledged his office’s involvement Wednesday without providing details.

“I can confirm we’ve received complaints from Mr. and Mrs. Beecher and that we are acting on those complaints, but I can’t comment any further,” he said.

Coe, the Mohegans’ attorney, said, “I have neither seen nor heard any information that would support any criminal action by the state.”

Beecher had originally contacted the chief state’s attorney to complain he was registered, without his knowledge, as an employee of the private investigation firm Pickett and Associates while he was working at Mohegan Sun. A fellow investigator, Ned Pickett, had created the agency to conduct off-reservation investigations on behalf of the tribe. Beecher said the tribe was not authorized to conduct such investigations and that they used an employee’s name and address to get around the law.

The Beechers, who live in Old Saybrook, have been in touch with groups all over the country that oppose gambling or tribal casinos. Beecher said he was contacted by an investigator conducting “due diligence” on the Mohegan Tribe on behalf of the Menominee Tribe of Wisconsin and that he has been in touch with the Pennsylvania Gaming Control Board, which is reviewing the tribe’s application for a gaming license for its Pocono Downs racino.

“These are national issues,” Beecher said. “(U.S. Sen.) John McCain is weighing these same issues on the utilization of sovereignty in the modern day and the reality of Las Vegas-style gambling on Indian reservations. It’s not going away, and people are really being impacted.”

Beecher has also spoken with Sylvia Tomsy, another former Mohegan Sun employee who is unhappy with the way she was treated. Tomsy, a licensing coordinator, said casino officials ignored complaints that she and other female employees made about sexual harassment by a male manager.

Tomsy said she eventually left the position due to stress. She was able to collect unemployment compensation when a referee for the State Labor Board found Tomsy had been subjected to offensive behavior, but when Tomsy sued the tribe and the manager in Tribal Court, she lost.

“I was overwhelmed by the manner in which I was treated,” she said during an interview at The Day last month.

Coe said cases involving employees are inevitable with a company the size of Mohegan Sun.

“That there would be any disgruntled employees should not be surprising to anyone,” he said.

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‘Malfunctioned’ win spurs Okla. casino questions

12:02 AM CST on Wednesday, March 1, 2006

By BYRON HARRIS / WFAA-TV

A WinStar casino in Oklahoma told Stanley Rosemond that his slot machine win was not valid because it was a machine malfunction. While Oklahoma has become Las Vegas’ competition by drawing in Texas residents to its 85 casinos and bingo parlors, the Indian property gambling regulations that run them have had some questioning their rules and fairness.

An Arlington man said he thought his life would be forever changed when he was told he had won \$11,289,874.74 after playing on a WinStar Casino machine that rolled the words congratulations across the bottom. While Stanley Rosemond’s life did change, it wasn’t in the way he expected and it was without \$11 million.

Last summer he went to the WinStar Casino, which is located 85 miles north of Dallas, and after the casino slot “big win” he was escorted to the cashiers booth where he said employees seemed excited for him. “The attendant inside shows me the numbers and says, ‘Would you like to see what you’ve won?’” he said.

But after waiting several hours, Rosemond and his wife were taken to a large empty room and were seated before casino officials. “[There was] four of them and two of us, and their on one side and we’re on the other side,” Rosemond said. “You know, we don’t know what to expect.”

The mood got less festive when the casino told Rosemond there would be no \$11 million winnings coming his way. “He says, ‘Ok, your machine malfunctioned so we can’t pay you,’” Rosemond said.

Rosemond missed the tiny warning label on the WinStar machine that read malfunctions void all plays and pays. However, that didn’t stop him from feeling as though the casino should still pay up. “You shouldn’t have a machine that malfunctions,” he said. “It should work, and if it doesn’t work the casino should stand behind it because they are taking people’s money away.”

William Thompson, who teaches public administration at the University of Nevada in Las Vegas, is an expert in the gambling business and said while slot machines can malfunction, the casinos owe it to their customers to pay them unless the player is cheating.

Las Vegas slot machines can clear a hundred thousand dollars a year per machine, he said. “You pay the player off,” he said. “Your machine was wrong. You screwed up. How about a malfunction when the player’s supposed to win and it shows a loss?” WinStar Casinos, which is owned by the Chickasaw Indian tribe, declined to talk to News 8.

In a written statement, WinStar Casinos told news 8, “Mr. Rosemond is claiming a win bigger than the machine could possibly pay based on the type of machine, the denomination and the wager.” The tribe said the machine could only pay only \$5,000.

Rosemond said WinStar offered him a series of take it or leave it settlements that started out at \$800, which he turned down.

Then later they offered \$1,199 dollars, which is \$1 less than the casino would have to report to the IRS. They said he could accept it on the spot or he would leave with nothing. "We didn't know what we could do," Rosemond said.

While Rosemond left with the offer because he felt trapped, he tried to keep the one key piece of evidence from WinStar of his "malfunctioned" win. The cards are given to every WinStar player and tracks their identity and winnings.

However, once he was told he had won big, casino officials confiscated it. Despite asking for the card back, Rosemond left without it after the assistant general manager said the card belonged to the Chickasaw Nation. "This is duress," Thompson said. "Any signature in those situations is under duress [and] should have no legal standing."

Kay Vanwey, who was hired as Rosemond's lawyer after he returned from Oklahoma, was stopped in her tracks when she discovered the tribe would not allow her to take legal action in the case. "It is the Chickasaw Nation that makes the laws," Vanwey said. "It is the Chickasaw National that interprets the laws. It is the Chickasaw Nation that enforces the laws."

She received a letter from their lawyer saying "all inquiries you make may be at your own personal peril and those people you hope to represent."

"If the intent was to intimidate me and frighten me, I certainly took it that way," she said.

WinStar is the largest of 11 Chickasaw casinos in Oklahoma, casinos which netted more than \$91 million last year according to tribal records.

Complaints about payment from Oklahoma Indian casinos are not rare.

Oklahoma Assistant Attorney General Bill Leader said he gets "about a dozen complaints from gamblers at [Oklahoma] Indian casinos a year but has no jurisdiction in resolving them.

Back in Las Vegas, Bill Thompson minces no words about the lesson behind this.

"You ought to have a sign on the border of Oklahoma, 'You're about to enter Oklahoma and gamble in a casino. Two things can happen. They are both bad. You can lose and you can win. You ain't getting paid,'" he said.

Last November, Rosemond received a summons from the Chickasaw tribal court in Oklahoma. He was the subject of a legal action and in a declaratory judgment the tribe said the case was closed.

News 8 asked the Chickasaw Nation how many malfunctions they have a year and they did not reply.

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