

## **Tribal Protest- Group Says Indians are Violating Rights of Their People**

By QUINCY CROMER/The Daily Journal

Some 50 to 60 people stood on the steps of the Mendocino County Courthouse Friday morning, demonstrating for Native American civil rights and spreading a message about violations they say are occurring throughout the state and nation.

With representatives from nearly a dozen different tribes or reservations throughout California, demonstrators held signs stating, "Civil Rights Justice For All" and "Disenrollment is a Hate Crime" as drivers passing by on State Street honked in support.

John Gomez from the Pechanga Indian Reservation in Riverside County traveled to Ukiah from Southern California to participate in Friday's demonstration and gain support for other events throughout the state.

"This is all about how our civil rights are being violated by tribal officials and tribal governments. There is nowhere where we can go to have our civil rights protected or upheld," Gomez said. "The public doesn't realize that this is happening and doesn't realize that Indians don't have rights through tribal governments."

Only three of 108 recognized Native American tribes in California have tribal courts, Gomez added, making it easy for tribal officials to violate civil rights without repercussions, he said.

"There is no way for us to have those rights enforced in any court or anywhere," he said. "Tribal governments are the ones who are doing the violating and they are the ones who govern themselves. They are not going to reprimand themselves."

With the formation of the American Indian Rights and Resources Organization last month, Gomez said one of the major goals of the group is to amend the 1968 Indian Civil Rights Act and protect all people from rights violations and tribal disenrollment.

"What we are trying to do is bring an audience to this and make people aware to try and rectify it," Gomez said. "We want Congress to look at the Indian Civil Rights Act again and amend it to give us the opportunity to have our rights preserved, protected and upheld."

Toting signs proclaiming there is "Third World Treatment in Indian Country," people of all races and ages walked along the west side of State Street near the courthouse as a group of Native Americans shared stories of civil rights violations.

"Quit Disrespecting our Ancestors," one sign read as the demonstrators assembled around the steps chanting "no more."

Sandra Avila, who said she lives on trust property near the Pinoleville Reservation on Orr Springs Road north of Ukiah proclaimed that she is passionate about Indian civil rights violations, but that the Pinoleville tribe does not recognize her as a member.

Reading from a letter she sent to The Daily Journal and from other letters she described as "hate mail," Avila said the public needs to be aware of how Native American rights are being violated and find a way to rectify the situation.

"This is the only way we are going to get anything done," Avila said. "This is happening nationwide and it has to stop."

## **El Paso Asks Feds to Intervene**

Pipeline company doesn't believe it needs tribe's consent on right of way

By Kathy Helms  
Diné Bureau

WINDOW ROCK — El Paso Western Pipelines and the Navajo Nation have agreed to disagree for now on the value of the company's 900-mile network of natural gas pipelines crossing Navajo soil while waiting on the feds to draw a line in the sand determining whether El Paso even needs the tribe's consent.

El Paso doesn't believe it does and is asking the Department of the Interior to approve its application in order to avoid a conflict with the Federal Energy Regulatory Commission's (FERC) jurisdiction over El Paso under the Natural Gas Act.

El Paso, whose right-of-way expired Oct. 17, contends that failure by the Interior to give its approval "would be tantamount to requiring an unauthorized abandonment of El Paso's pipeline facilities."

In its Sept. 29 letter to Interior Solicitor Sue Ellen Wooldridge, El Paso said it has been engaged in lengthy negotiations with the Nation in an effort to renew its 1985 right-of-way contract on "fair and reasonable terms."

"To date, the Nation has demanded that El Paso remit several hundred times fair market value as remuneration (payment) for the Nation's consent to the renewal," the company said.

"The Nation's demand translates to about \$50,000 per acre for an easement. In contrast, the fair market value of a perpetual easement on comparable off-reservation land is generally between \$100 and \$500 an acre," El Paso said.

The more than \$400 million the Nation is asking for "equates to a \$22 million payment annually over a 20 year period," according to El Paso. The Nation has rejected El Paso's most recent offer worth in excess of \$200 million, forcing it to seek federal approval to bypass getting the Nation's permission.

"The parties are therefore approximately one quarter of a billion dollars apart on a 20 year renewal," El Paso said.

Bruce Connery, vice president for Investor and Public Relations for El Paso Corp. in Houston, said last week that the company is asking the Department of the Interior to "approve our application that it would not require Navajo consent. Keep in mind that the land is owned by the United States in trust for the Navajo Nation.

"I don't want to interpret the legal arguments. Better for it to speak for itself," he said.

## ***Disrupting Threat***

El Paso contended in its filing with the Interior that the Oct. 17 expiration of its rights-of-way, which have been in existence since 1950, “threatens to disrupt El Paso’s pipeline operations and service to millions of consumers in Arizona, New Mexico, Nevada, and California who depend on these very rights-of-way for their energy needs.”

El Paso said the Nation’s “unreasonable conditions for consent” do not bar the Interior’s immediate approval of its application and its rights-of-way. El Paso argued:

Under the Navajo Nation’s Treaty of 1868 with the United States, “the Nation expressly agreed to permit construction of works of utility or necessity upon Navajo Lands subject to the payment of damages,” and that Congress has not abrogated its treaty. Nor can Interior Secretary Gale Norton act in a manner or impose a regulation that would abrogate the treaty’s provisions, El Paso said.

The Treaty of 1868 states: “They will not in future oppose the construction of railroads, wagon roads, mail stations, or other works of utility or necessity which may be ordered or permitted by the laws of the United States;

“(B)ut should such roads or other works be constructed on the lands of the reservation, the government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of said commissioners to be a chief or head man of the tribe.”

In its discussion, El Paso said the Nation consented to its pipeline rights-of-way back in 1868 when the treaty was signed. “Under the Treaty, the Nation relinquished its power to oppose, then and in the ‘future,’ works of utility or necessity upon Navajo Lands ordered or permitted by the laws of the United States.

### ***‘Utility or necessity’***

“Moreover, the Nation acquired its lands subject to the right of the Government to order or permit construction and operation of works of utility or necessity thereon,” El Paso said.

“Thus, the Nation’s right to occupy and use its lands has, since its inception, been subject to and burdened by the right of persons, including El Paso, ‘to pass over, settle upon, or reside in [Navajo Lands]’ as authorized by the United States and ‘ordered or permitted’ by FERC,” the company said.

The Bureau of Indian Affairs’ (BIA) implementing regulation requiring tribal consent to rights-of-way crossing Indian land cannot be lawfully applied to tribes, including the Nation, that have chosen not to reorganize under the Indian Reorganization Act.

By not reorganizing under IRA, “the Nation is barred from invoking the consent provisions that are available solely to IRA tribes,” El Paso said.

Renewal of El Paso’s right-of-way is necessary to avoid a conflict with FERC’s jurisdiction over El Paso under the Natural Gas Act. “Neither Secretary Norton nor the Nation can effectively veto the decision of FERC to certificate El Paso’s pipeline for public convenience and necessity.”

The company said Secretary Norton has an obligation to consider El Paso’s 54-year history of natural gas transportation over these rights-of-way “to ensure their actions do not interfere with the continuous supply of this gas at reasonable rates over rights-of-way maintained on reasonable terms.”

The Nation's imposition of unreasonable terms for its consent to renewal of the rights-of-way "is tantamount to an unlawful exercise of regulatory authority over non-Indians and is well beyond the scope of its tribal jurisdiction as defined by federal law," El Paso said.

"As such, the Nation's terms of consent are invalid and cannot prevent Secretary Norton from granting the rights of way sought in El Paso's renewal application," the company said.

El Paso's Connery said that literally, nothing has happened since the Oct. 13 deadline.

"There's nothing else that we can do, I guess, is the short answer. It takes a movement on their part to do that. The gas is flowing, we're serving our customers. There's been no impact. There's been no response from the Department of Interior as yet, so things just proceed on. We're hopeful the leadership will urge the negotiating team to take a more reasoned approach," he said.

"The bottom line is that the negotiating team will need to take a different stance vs. where they are today or hopefully members of the tribal council or others will persuade them to look at it in a more reasoned way," Connery said.

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## **Dolan Says Tribe Has Right to Take Back Chico State**

By ROGER H. AYLWORTH - Staff Writer

Chico Enterprise-Record

OROVILLE - A Butte County supervisor told members of the Mechoopda Chico Rancheria they have a right to reclaim the Chico State University campus.

The comment came during Tuesday's Board of Supervisors meeting when a clearly unhappy Chico Supervisor Jane Dolan was expressing her dissatisfaction at not being appointed to a newly created "Tribal Relations Subcommittee" of the board.

Supervisors Bill Connelly of Oroville and Curt Josiassen, whose district covers the southwestern section of the county, volunteered to serve on the committee before Dolan.

"I just want to reiterate what we all know, that every one of us has tribal land within the districts we represent. There are many, many issues; it's not just the locations and operations of economic enterprises and casinos," Dolan said.

Connelly said he had two Indian casinos in his district and three tribal groups. Josiassen said the proposed Mechoopda casino at the intersection of Highways 99 and 149 would be in his district.

Also, the two already serve as the board's Indian Gaming Local Community Benefit Committee, which according to Paul McIntosh, county chief administrative officer, would be folded into the tribal relations panel.

"I fully recognize the implication of the same two supervisors that serve on another committee serving on this," Dolan said.

"I don't want it to seem only you two have concerns, desires or issues.

"For the Mechoopda, their historical tribal lands are Chico State and we all on this board and many in this room, many community members in Chico, know of the tragedy of their land and their recognition being taken away just four and a half decades ago.

"They have a lot to be recovered. I think you have a right to Chico State," said the supervisor to the Mechoopda members in the audience.

"I'll second that motion," Connelly responded.

Dolan continued: "There are a lot in Northern California that feel that way. The (Mechoopda) cemetery is right there on West Sacramento (Avenue) and the city of Chico has made decisions that allowed fairly tacky development right next to it and not recognize or honored that, as we have with our own cemeteries."

## **Wealthy Tribes ‘Control’ Lawmakers, Governor Says**

September 21, 2005

By JIM MILLER / Sacramento Bureau

Powerful gaming tribes’ “control” of the Legislature is behind lawmakers’ opposition to recent tribal-casino agreements negotiated by his administration, Gov. Schwarzenegger said Tuesday.

“What has happened is that every time we come to agreement on a compact, we have the big tribes lobby up here and they control the legislators,” Schwarzenegger said.

The governor spoke during an afternoon of interviews with Capitol reporters for The Press-Enterprise and other newspapers.

He touted his “year of reform” agenda on the November special-election ballot.

Campaigning for office in 2003 with a promise to extract a “fair share” of tribal-casino revenue for the state, Schwarzenegger confronts a Legislature that seems increasingly skeptical of his efforts, particularly among fellow Republicans.

Tuesday, the governor accused wealthy tribes with casinos -- most of which are from the Inland area -- of trying to squelch competition.

“They lobby and they tell them not to vote for them. They don’t want the little tribes to build a casino that’s maybe 70 miles away from them,” he said.

Representatives of Inland gaming tribes were not immediately available for comment.

Assemblywoman Bonnie Garcia, R-Cathedral City, helped marshal opposition to two of the governor’s recent compacts.

Through a spokesman, she did not respond directly to the governor’s remarks.

‘Fulfilling My Commitment’

“I feel that in taking the time to adequately vet out the compacts the governor negotiated, I as a legislator am fulfilling my commitment to the voters of this state when they approved Prop. 5 and Prop. 1A,” Garcia said, referring to ballot measures that legalized Las Vegas-style gaming on tribal lands.

An agreement announced in June would have allowed the Yurok Tribe -- the largest and among the poorest tribes in the state -- to open a casino on its reservation along the Oregon border.

Another deal would permit the Quechan Tribe of the Fort Yuma Indian Reservation to install more slot machines in a new casino on its reservation in the southeastern corner of Imperial County.

Inland tribes led the opposition to the agreements. Critics -- including the Morongo Band of Mission Indians near Banning and the San Manuel Band of Mission Indians near Highland -- said the deals included unfair concessions to the state.

Inland tribal leaders view the agreements as an unacceptable template for negotiations to lift a 2,000-per-tribe cap on slot machines.

They say they don't fear competition.

On Sept. 9, the administration unveiled two more compacts. They would allow a Humboldt County tribe and another in San Diego County to build a two-casino complex in Barstow, with up to 4,500 slot machines.

Lawmakers and Inland tribes have slammed those deals because they would allow the tribes to build casinos far from their reservations.

Schwarzenegger said he expects to compromise with the Legislature on his compacts after lawmakers return in January....

Clark County, Washington

## **Casino Opponents Claim Tribe On ‘Secret’ Path For Approval**

Friday, October 21, 2005

By JEFFREY MIZE, Columbian staff writer

A group fighting the Cowlitz Tribe’s plans for a large casino complex near La Center charged Thursday that the tribe is pursuing a “secret strategy” to win federal approval for its \$400 million project.

Citizens Against Reservation Shopping, or CARS, said the tribe has quietly applied to have 152 acres along the west side of Interstate 5 designated as “restored lands,” a different process from the tribe’s application to make that land a reservation.

Ed Lynch, the group’s chairman, said he met with George Skibine of the Bureau of Indian Affairs earlier this month in Washington, D.C., and learned the Cowlitz Tribe applied for restored lands status March 15.

Tribal officials said there is nothing unusual or secretive about their approach.

CARS officials said the Bureau of Indian Affairs reviews applications for initial reservations while the National Indian Gaming Commission oversees requests for restored lands.

The restored lands designation is less difficult for tribes to obtain and doesn’t require public comment, according to the group.

“The tribe must feel that their case is not very strong,” Judie Stanton, a former Clark County commissioner and a CARS board member, said in a statement. “They’re changing horses before a decision on the first application, the initial reservation, is made.”

Lynch called it an “outrage” that the tribe would insist it wants to work with the community while pursuing a behind-the-scenes strategy.

“Nobody was notified,” said Tom Hunt, a CARS spokesman. “They have pursued this thing totally quietly ---- until we learned about it.”

But David Barnett, a Cowlitz Tribe member who has formed a partnership with the Mohegan Tribe of Connecticut, said the issue is part of the required process for a gambling ordinance, something the tribe applied for on March 15.

“There’s nothing unusual or secretive about the process,” Barnett said. “Mr. Lynch is just frustrated because his misinformation is not accepted.”

Steve Horenstein, a Vancouver attorney who represents the Cowlitz Tribe, also denied the tribe was making a secret bid for federal approval.

“The law that governs reservation status, trust status and gaming for tribes is a complex set of federal laws and regulations,” Horenstein said. “The tribe is availing themselves of what the laws says. Just

because some don't seem to understand those regulations doesn't make it secret or nefarious.”

Shawn Personeau, a spokesman for the National Indian Gaming Commission, did not return phone calls Thursday seeking comment on the group's allegations.

The Cowlitz Tribe, in partnership with the Mohegan Tribe, wants to build a project offering 160,000 square feet of gambling space, 210,000 square feet of restaurant-retail space, 150,000 square feet of convention-entertainment space, a 250-room hotel and structured parking for 8,500 vehicles.

CARS, whose board members include Columbian Publisher Scott Campbell, argues that the Cowlitz Tribe does not have historical roots in Clark County and has no right to establish a reservation here.

The tribe counters that it has an extensive history in Clark County, much of which has been documented by Stephen Dow Beckham, a Lewis & Clark College professor.

## Update

Previously: The Cowlitz Tribe applied for federal approval to have 152 acres west of La Center designated as its initial reservation, which would allow the tribe to build a \$400 million casino-hotel complex.

What's new: Citizens Against Reservation Shopping, a group opposed to the casino, says the tribe also has been pursuing a 'secret strategy' to win federal approval.

What's next: Recently elected leaders from the Mohegan Tribe of Connecticut, the Cowlitz Tribe's business partner in the La Center project, will host an invitation-only reception this afternoon in Vancouver.

## Tribe, IRS Square Off Over Bonds

**CABAZON BAND: The agency doesn't believe certain debt certificates qualify as tax-exempt.  
October 25, 2005**

By JONATHAN SHIKES / The Press-Enterprise

A Florida Indian tribe has refinanced \$258 million in tax-exempt bonds on orders from the Internal Revenue Service, but a Riverside County tribe with a similar bond deal is not being forced to do the same, according to an executive with the tribe.

In fact, the Cabazon Band of Mission Indians is expected to reach a deal with its bondholders within two weeks that will allow it to make improvements to the Fantasy Springs Hotel and Casino Resort in Indio, said resort director James McKennon.

The tribes are among 10 to 12 nationwide facing scrutiny from the IRS, which believes they issued bonds for projects that do not qualify for tax-exempt status. The tribal owner of the Morongo Casino Resort and Spa in Cabazon is also being audited.

Both the Cabazon Band and the Seminole Tribe of Florida have disputed the IRS contentions and said they plan to fight the agency's decisions.

If they lose, the bondholders could be forced to pay back taxes, said Jessalyn Moro, senior director at Fitch Ratings, a bond analysis firm. But "what typically happens is the issuer settles with the IRS, and the bondholders don't end up paying."

The tribes could also face penalties, but Moro said the amount would be relatively small compared to casino cash flow, at least for the Seminole Tribe.

The IRS did not require the Cabazon Band to sell its bonds, as it had with the Seminoles, said McKennon, who is executive director of the East Valley Tourist Development Authority, a tribal entity that oversees the casino and hotel.

"Their deal was structurally different from ours," he said. "We feel we have a much greater argument than the Seminoles in support of our bonds."

But the agency is expected to make a second ruling on the status of the bonds and could order the tribe to refinance the deal at that time, McKennon added.

The IRS does not comment on specific cases or audits.

The Seminole Tribe sold its bonds in 2003 to help pay for construction of two Hard Rock Hotel and Casino complexes in Florida.

In early 2004, the IRS began an audit of the bonds. In December, it ruled that they had not been validly issued under Florida law and were used to finance a commercial venture rather than an "essential

government function,” as is required by federal law.

Indian tribes are considered sovereign nations. As such, they are allowed to float tax-exempt bonds like any other government entity. But the money is supposed to be used for government functions, such as roads and water treatment plants.

The agency gave the Seminole Tribe one year to retire the bonds and pay off the bondholders along with 8 percent interest, according to Fitch Ratings.

In April 2004, the IRS declared that \$145.5 million in bonds sold by the Cabazon Band in July 2003 also had not been used for essential governmental functions.

The Cabazon Band used the money to build a 12-story hotel and convention center. It has maintained that the project serves a governmental function by providing jobs and commerce in an economically underdeveloped part of Riverside County.

The bonds were not used to pay for any construction or improvements in the actual casino, but the tribe is close to an agreement with the bondholders that will lower the amount of cash the resort is required to keep on hand, McKennon said.

This will allow it to spend more of its revenue upgrading the casino by adding more electronic signs and additional redemption kiosks, he said. The changes to the bonds will also allow the tribe to delay construction of a parking garage.

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## **Tribe May Sue To Force Casino Accord**

State did not ratify gaming compact

By James P. Sweeney  
COPLEY NEWS SERVICE  
November 1, 2005

SACRAMENTO – Frustrated and angry at the Legislature’s refusal to approve its new gambling agreement, an Imperial County Indian tribe is preparing to go around state lawmakers for permission to expand its casino.

The Quechan tribe will ask the Schwarzenegger administration to grant it the same terms as a compact approved last year for the Fort Mojave tribe or face a federal lawsuit, Quechan’s attorney said.

The move could drag the state into uncharted legal territory and represents the first time any tribe has attempted to invoke the “most favored tribe” clause in compacts signed by former Gov. Gray Davis in 1999.

That clause gives tribes the right to request – and compels the state to grant – more desirable terms later given to any other tribe. A tribe would have to accept all of the preferred compact, although the revised agreement could run no longer than the time left on the 20-year deals signed in 1999.

“We’re just not going to let the Legislature control this process for us,” said Larry Stidham, a Ramona attorney who represents Quechan. “We’re not optimistic that they’re going to do their end quickly.”

The 3,200-member Quechan tribe has a 45,000-acre reservation straddling the California-Arizona border. The tribe operates small casinos in both states, but wants to build a larger facility with up to 1,100 slot machines along Interstate 8.

A compact that authorized Quechan’s plans came under fire this summer from wealthy, politically powerful tribes who persuaded the Legislature not to ratify it. Lawmakers also declined to consider three other compacts, including one for the Los Coyotes band of east San Diego County.

Leaders of the big gaming tribes complained that the compacts contained increasingly restrictive provisions that the state ultimately would attempt to force on all tribes.

Lawmakers held no hearings and took no votes on the Quechan and other agreements. Instead, committee chairmen said they would hold public hearings this fall. The first hearing was canceled last week and no others have been scheduled.

The delay will cost Quechan millions in lost revenue. And there are no assurances the Legislature will ever ratify its compact, even though it was patterned after the Fort Mojave agreement easily approved late last year.

“It’s becoming clear to us that there are some issues between the (Republican) governor and the (Democrat-controlled) Legislature on how these compacts are to be looked at, what the role of the Legislature is,” Stidham said. “We’re not going to be caught in the middle of that.”

Stidham said the tribe has asked for a meeting with the administration to request the Fort Mojave compact under the most favored tribe clause. If the administration balks, Stidham said the tribe is preparing to file a lawsuit accusing the state of failing to negotiate in good faith as required by federal law.

It’s unclear, however, whether the Schwarzenegger administration inserted language into its compacts to block use of the most favored tribe clause or whether such a move might still require Legislative approval.

Rob Rosette, an Arizona attorney who negotiated for Fort Mojave, a San Bernardino County tribe, said he believes the compact contains language that prohibits its adoption under the most favored tribe clause. The governor’s legal team was not sure, a spokesman said.

“The administration would be happy to discuss that option and wouldn’t have any immediate objections to pursuing that route,” spokesman Vince Sollitto said. “However, it would take further legal review to determine whether Quechan would be able to adopt the Fort Mojave compact under the MFT clause . . . It’s not been done before.”

OCTOBER 23, 2005

## **Hearing Set in Aurelius Case**

By Amaris Elliott-Engel / The Citizen

A hearing has been scheduled next month in the litigation between the Seneca-Cayugas of Oklahoma and the towns of Aurelius and Montezuma over land in Cayuga County, including now-defunct proposed casino spot at the intersection of routes 5 and 20 with Route 90.

The hearing will be heard 10 a.m. Nov. 22 before U.S. District Court Senior Judge Neal P. McCurn and will consider dismissing the complaint the tribe brought against the municipalities when a stop-work order was issued by Cayuga County Judge Peter Corning. An injunction has been in place since 2003 blocking the Oklahoma-based tribe from building a bingo hall.

The attorneys representing the municipalities are arguing that U.S. District Court Judge David Hurd's Oct. 5 decision in the Union Springs bingo hall case applies to the Aurelius case, that the tribe's parcels are subject to local laws and regulations and the tribe must pay property taxes on its land.

Even without a decision in the case, the tribe has agreed to pay taxes on its county parcels following the U.S. Supreme Court's city of Sherrill decision ruling land purchased within a tribe's historic territory does not automatically become sovereign. The tribe has also shifted their gaming focus to a Catskills casino, although the political will for a land claim settlement in exchange for an out-of-state tribe establishing a casino in New York has deflated in Albany following the Sherrill decision in March and the land claim decision in June. Seneca-Cayuga leaders have also said they have not filed a land-in-trust application and do not have immediate plans to do so for their New York lands.