

Oregon appeals court allows casino challenge

CASCADE LOCKS, ORE. (AP) — Opponents of a tribal casino in Florence have won court approval to challenge Gov. Ted Kulon-goski over whether the gov-ernor’s office can authorize casinos.

The Oregon Court of Appeals has ruled that a citizens group called Peo-ple Against a Casino Town, or PACT, can challenge the approval for the Three Rivers Casino the Confed-erated Tribes of Coos, Lower Umpqua and Sius-law Indians opened in 2004.

The unanimous ruling on Wednesday was decided mostly on procedural grounds, sending it back to Lane County Circuit Judge Karsten Rasmussen for new hearings in a legal battle that has lasted more than a decade.

Three earlier challenges were rejected. A federal judge dismissed an initial lawsuit in 2003 that chal-lenged U.S. Interior Department authority to allow gambling on tribal property. Two other law-suits, one in federal court and the other in Lane County, also were dis-missed.

A spokeswoman for the Oregon attorney general’s office said the latest ruling was under review.

The lawyer for PACT, Kelly Clark, says it gives opponents a chance to con-front Kulongoski over whether his office has the authority to enter a compact with tribes when the Oregon Constitution prohibits casin-os.

“What the Court of Appeals said is that the citizens of Oregon have the right to hold their gov-ernor accountable and the tribes don’t have the right to stop that challenge,” Clark said.

In an opinion by Judge Rick Haselton, the appeals court said that without a challenge, PACT would not have a “plain, speedy and adequate remedy” because the Confederated Tribes have sovereign immunity from state courts, and they were part of the original compact reached with former Gov. John Kitzhaber to approve the casino.

The opinion also said there is a conflict that needs to be resolved because the Oregon Con-stitution says the “Legislative Assembly has no power to authorize, and shall pro-hibit, casinos from opera-tion in the State of Ore-gon.”

The law has generally been interpreted to mean that casinos should be placed only on tribal lands.

Stephanie Soden, spokeswoman for Oregon Attorney General Hardy Myers, said the federal Indian Gaming Regulatory Act requires states to nego-tiate gaming compacts with tribes.

“And the state has fol-lowed that law since it passed,” Soden said. “This ruling is a procedural decision and not a deci-sion regarding the lawfulness of the gaming com-pact.”

But Clark said federal law on Indian gaming does not require states to violate their own laws. He cited Utah as an example, which has no casinos because the state prohibits them.

“Now the governor has to say why he has the right to authorize casinos, even on tribal land,” Clark said.

He added the ruling could affect other casinos, including Confederated Tribes of the Warm Springs Reservation plans to build a casino in the Columbia Gorge at Cascade Locks, already approved by Kulon-goski.

Tribes donate to governor, avoid casino profits

By Chris McGann
Seattle Times

OLYMPIA, Wash. — Gov. Chris Gregoire is benefiting from more than \$650,000 in campaign contributions from Indian tribes that hit the jackpot in 2005 when she killed a gam-bling compact potentially worth more than \$140 million a year to the state.

Unlike 22 other states that collect millions from revenue sharing agreements for tribal gambling, Washington gets no money from tribal casinos under the compact that Gre-goire renegotiated with the Spokane Tribe.

Gregoire backed away from the 2005 agreement that included revenue sharing in an attempt to keep gambling from expanding too quickly and after listening to concerns from a wide range of groups, includ-ing other tribes, said her spokesman, Pearse Edwards.

But gambling experts say the state’s arrangement, which gives the governor power to approve or reject gambling agreements with the tribes and allows those same tribes to contribute to political cam-paigns, is ethically problematic but not illegal.

“It’s a payoff,” said Univer-sity of Nevada-Las Vegas pro-fessor William Thompson, who has been studying tribal gam-bling since 1988. “She should-n’t take any campaign money, nor should her political party, and it smells too quid pro quo for my liking.”

Even Gregoire’s fellow Democrats in the Legislature question the deal.

“Why would you give

someone a monopoly without taking a cut?” asked Sen. Ken Jacobsen, D-Seattle.

The bulk of the tribal cam-paign contributions came from tribes that opposed the 2005 agreement Gregoire killed.

The governor’s spokesman said “there is no quid pro quo.”

“We are required under fed-eral law to negotiate with the tribes on a government to gov-ernment basis,” Edwards said.

“Regarding the potential re-venue, the tribes employ tens of thousands of people across the state, mostly non-Indian, who are providing nearly a billion dollars in wages and benefits. They’ve contributed millions to local governments for local infrastructure programs. They contribute millions to charities. The list goes on and on,” he said. “They contribute over \$100 mil-lion to health and education programs around the state.”

The final compact negotiat-ed by Gregoire included a pro-vision that allowed other tribes to expand casino operations without revenue sharing. Twenty-seven of the state’s 29 federally recognized tribes signed on to the Spokane com-pact’s provision. Not all of them operate casinos.

State tribes have pumped more than \$600,000 in cam-paign contributions into the state Democratic Party since 2004, which in turn contributed to Gregoire’s campaign.

Tom McCabe, executive vice president of the Building Industry Association of Wash-ington, which has contributed heavily to Gregoire’s Republi-can challenger, Dino Rossi, said the incentive is obvious.

“Politically, they can’t afford to have her lose,”

McCabe said. “So they are going to have to spend whatev-er it takes to have her win. They know if Rossi wins, all bets are off.”

Tribes have also contributed to Republican candidates but at a tiny fraction of the level they have given to Democrats.

In 2005 the state Gambling Commission and the Spokane Tribe reached an agreement that would have allowed more than 7,000 video gambling machines and a six-tiered re-venue sharing structure. The renegotiated deal without re-venue sharing allowed only 4,700 machines.

If the original compact had been approved, other tribes would be entitled to similar levels of expansion under the same terms.

Depending on the number of tribes participating, the state could have received from \$40 million to more than \$140 mil-lion annually.

The money would have been dedicated to projects of “mutual importance to the state and tribes” such as Puget Sound cleanup, salmon protec-tion, culvert expansion and transportation projects.

But in an Oct. 27, 2005, let-ter, before the deal was submit-ted for nonbinding legislative review, Gregoire asked the Gambling Commission to renegotiate.

In a 2006 letter recommend-ing the renegotiated agreement, Gregoire said she had “asked the parties to reconsider the provisions related to the off-reservation facilities ... and rev-ue sharing.”

Attorney Scott Crowell, who represented the Spokane Tribe, said Gregoire’s staff was

actively involved in the new negotiations.

“The state had a formal negotiation team through the Gambling Commission but they were in fairly regular con-tact with (Gregoire’s then-Chief of Staff) Tom Fitzsim-mons in her office because ulti-mately the agreement is between the governor of the state and the tribe,” Crowell said.

“It is true that a number of tribes did come out and announce their opposition to that first compact. The Spokane took some offense to that because the Spokane did not interfere with the compacts negotiated by the other tribes with the state. We felt it improper for them to take issue with ours.

Crowell said the compact would impact other tribes only if they chose to sign on to the agreement. Signing the exist-ing compact was the most expedient way to obtain state permission to expand tribal gambling.

Gregoire saw that as a problem and called for a renegotiation of the 2005 compact with the Spokane Tribe after receiving input from interested parties, including other tribes and local law enforcement offi-cials, Edwards said.

“It was almost like trigger-ing a gambling arms race in the state,” he said. “What would occur under the revenue shar-ing is that it would have led to an almost unlimited expansion of gambling -- unlimited tables, unlimited betting -- and that is something that the governor wanted to avoid.”

Other states provide a

model of what happens when tribal casinos enter into re-venue sharing arrangements, Edwards said.

“It opens up a Pandora’s box on gambling and where does it stop?” Edwards said.

Gregoire was protecting the state’s interest, he said.

“It’s not about who gives and doesn’t give, it’s about good public policy,” Edwards said. “This is a free country and if someone wants to make a donation to any party, to any group, they are free to do so. The governor and the tribes have the relationship they have because of the mutual respect they have for each other.”

The governor sees no need for a firewall to prevent the contract negotiations from crossing over into the expecta-tion of campaign contributions, Edwards said.

“There’s not a legislative vote but there are public hear-ings. ... There is a process (in place) where other representa-tives of state government look at that,” he said.

But Jacobsen, the Seattle state senator, said there wasn’t enough transparency.

“By the time anybody in the Legislature heard about it, it was a done deal. There are a lot of people, Democrats and Republicans, who were a little bit grumpy about that because, God, that’s a lot of money we gave them without getting any-thing back.”

Asked if there should there be a firewall between groups that negotiate with elected leaders, Jacobsen said: “When you start talking money, people are getting tempted,” adding that even if there isn’t outright corruption, it looks bad.

Supreme Court rules in Indian adoption case

By Darwin Danielson
Radio Iowa

SIoux CITY, IOWA — The Iowa Supreme Court says the state’s rules involving the adoption of an Indian child are unconstitutional. The case involves a 20-year-old Sioux City woman who is a member of Tyme Maidu Indian tribe in California.

The woman gave birth to a baby girl in 2006, but already had two children and decided to give the new baby up for adoption. She found an Ari-zona couple that was not Native American to adopt the child. Officials from the tribe contested the placement with a non-Indian family under Iowa’s Indian Child Welfare Act.

The Iowa Supreme Court says the Iowa statute makes the rights of a tribe paramount to the rights of an Indian parent or child even where, as in this case, the parent who is the trib-al member has no connection to the reservation and has not been deemed unfit to parent. The High Court says the Iowa statute is unconstitutional and is sending the case back to juvenile court where the issue is to be settled using the feder-al Indian Child Welfare Act rules.

Returned to sacred land



Associated Press

Members of the Tseycum tribe place caskets holding the bones of some 55 Tseycum ancestors into graves on the Tseycum Reserve near Sidney, Canada, Friday. The remains of Tseycum ancestors were returned from New York to their home in Canada and buried in sacred land on the reserve.

Tanka Bar on Regis & Kelly

By Heidi Bell Gease
Rapid City Journal

RAPID CITY, S.D. — Makers of the Tanka Bar got a national publicity boost when the energy bar was featured on “Live With Regis & Kelly” Wednesday morning.

“We have just been swamped today,” said Linda Crider, director of marketing for Native American Natural Foods in Kyle, which makes the bars. “It was amazing.”

Crider said someone from “Live” called them Tuesday to ask about the bars, which were the subject of a recent Associated Press feature

story. She didn’t know until Wednesday whether Regis Philbin and Kelly Ripa, who host the show, would actually talk about the Tanka Bar.

They did, even sampling a little on air and commenting on its moist texture. Tanka Bars, which are made from buffalo and cranberries, are high in protein and low in fat and carbohydrates, which Philbin mentioned during the segment.

“It was incredible,” Crider said. “It was a really, really nice thing to have happen.”

You can see the segment until 3 p.m. today at the fol-lowing link:

Action on freedmen await ruling

By Jim Myers
Tulsa World

WASHINGTON — The Bureau of Indian Affairs will not take further action on the long-running controversy over the Cherokee Nation and the descendants of former slaves until a pending court case is resolved, it was learned Thursday.

“The United States Court of Appeals for the District of Columbia has before it a case that will help determine the status and the rights of the Freedmen” descendants, states a May 22 letter from Carl Artman, then the BIA’s director. “The Department will await the final outcome of this case prior to taking any further action with

regards to the Freedmen” descendants.

Artman’s letter was to Democratic U.S. Reps. Diane Watson of California, Mel Watt of North Carolina, Barney Frank of Massachusetts and John Conyers of Michi-gan. Those four lawmakers met with Artman in March to have him clarify the BIA’s position on the status of the freedmen descendants.

Artman has since resigned.

Cherokee Nation Principal Chief Chad Smith on Thurs-day welcomed Artman’s let-ter.

“Since the Cherokee Nation has fully complied with the Treaty of 1866, it’s the right thing to do,” he said. Smith believes that Art-

man’s letter is consistent with the historic practice of the

BIA of acknowledging the Cherokee Nation’s right to require that citizens have an Indian ancestor on the Dawes Rolls of the Cherokee Nation, a federal census that concluded in 1906.

“We hope Congress fol-lows the BIA’s example of waiting for the courts to decide before taking prema-ture punitive action against the Cherokee Nation that will cut nearly \$300 million in federal funding for elderly, young, infirm and low-income Indians,” Smith said.

Watson, the most vocal congressional critic of the Cherokee Nation, said she was not surprised by Art-man’s response.