

Millions misspent by tribal legislator

By Tony Thornton
The Oklahoman

CONCHO, Ariz. — A Cheyenne and Arapaho legislator improperly diverted \$8.8 million to a bank account he controlled, a federal audit shows.

Coincidentally, Robert Wilson also was among the tribal legislators who requested the audit by the National Indian Gaming Commission, hoping it would uncover wrongdoing by the tribes' governor.

Instead, the audit found money was misspent only by the two tribes' legislative branch.

Although the \$8.8 million wasn't spent according to a federally approved revenue allocation plan, it ultimately went toward tribal government programs, auditors found. At the time, Wilson was the tribes' interim treasurer.

Gov. Darrell Flyingman said the audit report proved that the tribes' executive branch "is running an honest government, that we're accountable and following federal guidelines."

Flyingman said when he heard last August that some political rivals wanted the audit, he made the same request.

"I welcomed it," he said.

So why would legislators seek an audit that would expose their own apparent misdeeds?

"They're idiots," Flyingman said Tuesday. "I'm baffled."

Wilson said he asked the National Indian Gaming Commission for a copy of the audit report but was told they would send one only to Flyingman. He said Flyingman hasn't responded to his request for one.

As for Flyingman's statement that some legislators are "idiots," Wilson said: "I don't think that's true."

"I still believe to this day that there's wrongdoing. He knows it and I know it," Wilson said.

The National Indian Gaming Commission regulates casinos owned by American Indian tribes. The Cheyenne and Arapaho audit, released in late May, covers fiscal years 2006 and 2007. Among its findings:

- The two tribes received \$26.6 million in 2006 and \$26.8 million in 2007 from their three casinos. The vast majority came from the tribes' Lucky Star casinos at Concho and Clinton.

- The tribes' Feather Warrior casino at Watonga had no formal policy for distributing revenue. As a result, the casino made sporadic distributions to the tribes, ranging from \$75,000 to \$500,000.

An attorney hired by the tribes' legislative branch was paid \$127,296.74 directly from one of the two Lucky Star casinos. The tribes' constitution allows the governor to negotiate and sign attorney contracts. Because Flyingman never signed the contract, the attorney payments were improper, auditors said.

The former tribal council coordinator made unauthorized credit card purchases totaling \$4,030 and kept the merchandise for his own use.

Flyingman said the former employee, David Bearshield, faces criminal charges in tribal court over the purchases, which Flyingman said included a lawn mower and a vacuum cleaner.

"He's on the run," Flyingman said, adding that Bearshield's last known location was in Montana.

A power struggle between Flyingman and a majority of the tribes' eight legislators caused a nearly two-year governmental stalemate.

A separate audit, ordered by the tribes' court system, is due for release in August. That one, performed by a public accounting firm, focuses on actions involving the Lucky Star's former management company, Southwest Casino and Hotel.

South Dakota hog farm not on Indian Country

Sioux Falls Argus Leader

SIOUX FALLS, S.D. — A federal judge has confirmed in writing that a hog farm owned by 11 Iowa farmers is not part of South Dakota's Yankton Sioux Reservation and told people trying to stop the proj-

ect that they must show how it's violating the law.

U.S. District Judge Lawrence Piersol held a hearing last week and issued an order Tuesday concluding that the roughly 40-acre site near Wagner is private property. It's about four miles north of

Marty, the Yankton Sioux Tribe headquarters.

Frances Zephier, Robin Bair and Rachel Bernie, on behalf of the Yankton Sioux Tribe Head Start Concerned Parents, are representing themselves in their complaint against Longview Farm of

Hull, Iowa.

They allege the farm under construction has not met federal environmental requirements, has violated federal regulations on children's health and has failed to follow federal law requiring a search for historic and cultural

resources on the construction site.

Piersol did not dismiss the lawsuit or rule on it but put the onus on the plaintiffs to prove their case.

"Plaintiffs had made various claims including claims under the Clean Air Act and other federal statutes. It is plaintiffs' burden to show jurisdiction under those various federal statutes, as well as to show any violation of those statutes and regulations which would warrant the relief requested," he wrote.

Piersol also wrote that the paved road in front of the farm site was supposed to have been transferred from Charles Mix County to the Bureau of Indian Affairs after a 1995 agreement, but that only happened in May when the BIA demanded it.

Regardless, the road is not Indian Country, the judge wrote.

Zephier said Wednesday she had not seen the order and did not want to comment until she did.

Longview Farm attorney Dave Nadolski said he was pleased.

"The judge made it clear that the road isn't impacted by Indian Country and the property isn't impacted by Indian Country and the plaintiffs have the burden of proof to show the judge why he should keep us from building," he said. "The burden of proof now is clearly on the three plaintiffs to convince the federal judge that we've violated federal law. And we don't believe we have."

Nadolski filed a separate federal complaint last week against the Yankton Sioux Tribe, its tribal court and several officials, asking Piersol to declare the project off limits to tribal judges because it's on private land.



Associated Press

From left, Frances Zephier, Robin Bair, Juanita St. Pierre and Godwin Weston take part in a sacred prayer ceremony on Wednesday, June 18, outside the federal courthouse in Sioux Falls, S.D. Zephier and Bair and another American Indians filed a lawsuit against a hog farm being built near the Yankton Sioux Tribe headquarters. A federal judge on Wednesday refused to stop construction of an Iowan-owned hog farm west of Wagner, saying it is not on tribal land as three American Indians claimed in a lawsuit against the project.

Pelosi to grant vote on Indian gaming bill

By Susan Crabtree
The Hill

WASHINGTON, D.C. — House Speaker Nancy Pelosi (D-Calif.) is giving Rep. John Dingell (D-Mich.) a full House vote Wednesday on a nettlesome Indian gaming bill he's been pushing for years as a surefire way to help out his cash-strapped district.

Dingell and his allies tried — albeit unsuccessfully — to insert it into various legislative vehicles despite an onslaught of complaints from high-profile opponents and others, such as convicted lobbyist Jack Abramoff, who were stalwartly against congressional intervention in the issue.

Sen. John McCain (R-Ariz.), then the chairman of the Senate Indian Affairs panel investigating Abramoff's Indian gambling lobbying scandal, was infuriated by an effort to parachute the language into an early version of the 2005 highway bill. Rep. Don Young (R-Alaska), at Dingell's urging, had placed the language deep within the massive transportation measure as early as 2003.

Rep. Richard Pombo (R-Calif.), the House Natural Resources chairman, also objected. Both he, and especially McCain, were incensed that Dingell and Young were bypassing their committees of jurisdiction, as well as what they regarded as the normal Department of the Interior approval of Indian issues involving casino interests.

In fact, to make the Indian land settlement claim language even less noticeable, Young and Dingell collaborated on language that would make it appear transportation-related.

According to draft language offered by Dingell, the provisions would appropriate \$100,000 for two traffic studies to be conducted in Port Huron and Romulus, Mich., in connection with "economic development" that may result from the resolution of two tribes' land-settlement claims. Language embedded in the provision approved them and directed the secretary of the Interior to take the land into trust.

Critics, including powerful Detroit Democratic Reps. John Conyers Jr. and Carolyn

Kilpatrick, sniffed out the language, and drove their point home by arguing that the deals the bills cut for the Bay Mills and Sault Ste. Marie tribes would side-step the careful federal consideration that is usually required and set a dangerous Congressional precedent for other tribes around the country. Conyers and Kilpatrick are concerned that the new nearby casinos would draw customers and revenue away from Detroit while generating no tax revenue for the state because Indian gaming operations aren't taxed.

Casino developers negotiated with the tribes and lawmakers, and the cities of Romulus, in Dingell's district, and Port Huron, in Rep. Candice Miller's (R-Mich.), which were selected because they were close enough to Detroit to attract tourists and visitors.

The lawmakers welcomed the economic lift the gaming business would bring to the sagging rust-belt economies of their districts and went to work to get congressional approval. That was nearly a decade ago.

Pombo was the first to object publicly, and McCain stepped in when he heard a return to the earlier shenanigans could take place during the closed-door conference on the 2005 transportation bill.

"I have been informed that other conferees may seek to include in the conference report a provision relating to Indian gaming in Michigan," McCain wrote in a 2005 letter to Sen. James Inhofe (R-Okla.), chairman of the Committee on Environment and Public Works, which was overseeing the highway bill. "I have been informed that other conferees may seek to include in the conference report a provision relating to Indian gaming in Michigan. Such inclusion would not only circumvent the normal administrative process by which Indian gaming operations are assessed, but also circumvent the regular legislative process for considering exceptions to this process."

"I appreciate your assistance in keeping such a non-germane issue out of the highway bill," he continued. Even though it's three

years later and Democrats now control the majorities in both chambers of Congress, Young — now the ranking member of the Natural Resources Committee — and Dingell are continuing to work together to push the measure over a final finish line. Mike Malik, a casino developer, recently hired Rick Alcalde, one of Young's "A-List" lobbyists whom interns were told to put through to aides whenever he called, according to a memo crafted by interns.

Even if it passes, however, Senate Majority Leader Harry Reid (D-Nev.), whose district is home to MGM and other Vegas money, strongly opposes the measure and could prevent it from ever making it to the floor.

MGM owns the largest casino in Detroit and its lobbying against the legislation has been fierce.

The Sault Ste. Marie tribe owns six casinos, one of which — Greentown — pulled in more than \$341 million in 2007. The Bay Mills tribe also owns a casino, but it pulls in far less than the Sault Ste. Marie.

Panel votes; back Wintu tribe

By Larry Mitchell
Chico Enterprise-Record

SACRAMENTO, Calif. — Members of a north-state Indian tribe were pleased Tuesday that a state Senate committee voted to support their effort to win back federal recognition.

Historically, the Winnemem Wintu Tribe occupied land between Mount Shasta and Redding, said Mark Franco, a member of the tribe.

However, he said, through what the tribe regards as a government error, the Winnemem Wintu were dropped from the list of federally recognized tribes, and members

lost government services, such as education, housing and health programs.

In addition, according to Franco, in 1948, when Shasta Dam was completed, the creation of Lake Shasta took 4,800 acres of the tribe's allotted lands. He said the government failed to make good on its promise to give the tribe other land and to create a tribal cemetery.

Assembly Joint Resolution 39, authored by Assemblyman Jared Huffman, D-San Rafael, would give the tribe the support of the state of California as the Winnemem Wintu seek to convince the federal government to restore recognition.

The bill already passed the Assembly and on Tuesday won approval from the Senate Governmental Organizations Committee on a 6-0 vote. It should reach the Senate floor in August, Franco said.

Franco and his wife, Caleen Sisk-Franco, the tribe's spiritual leader and chief, live in Redding. Sisk-Franco graduated from Chico State University and used to work at Chico State.

Franco said the tribe has 123 enrolled members. Most live in different parts of California and other states, while 34 members live in Redding.

Gaming bills rejected

Jake Henshaw
Palm Springs Desert Sun

PALM SPRINGS — The Cabazon Band of Mission Indians on Wednesday may have lost a chance to install more slot machines in its casinos.

The Assembly Governmental Organization Committee rejected Senate Bill 1201 by Sen. Jim Battin, R-La Quinta, to allow tribes with one of the original 61 compacts signed in 1999 to operate 2,000 machines.

The 1999 compact set 2,000 as the maximum number of slot machines that any tribe could operate. But the number of machines that individual tribes may have is limited by a statewide cap imposed by the state gambling agency.

The Cabazon tribe now

has 1,956 slot machines and the governor has said the tribe needs to renegotiate its compact to get the remaining machines, according to Battin.

"The bottom line on this is fairness," Battin said.

But opponents countered that it's unfair to allow some tribes to get more slot machines now without negotiating amended compacts after other tribes have taken that step to get more machines.

"We think it's terribly unfair to change the rules of the game," said Cathy Christian, a lobbyist for San Diego County in opposing the bill.

The committee also turned down SB 864 by Battin aimed at preventing charities from using electronic bingo games instead of paper cards.