

Press groups seek to enter eagle case

CHEYENNE, Wyo. (AP) — Press groups in Wyoming and Colorado are seeking to intervene in a federal court case involving a Northern Arapaho man who killed a bald eagle for use in his tribe’s Sun Dance.

The Wyoming Press Association and the Colorado Press Association both filed papers with the 10th Circuit Court of Appeals in Denver last week supporting the request by Winslow Friday for a new hearing on his case.

Friday, 23, has asked all 12 active judges on the appeals court to review a decision handed down in May by a three-judge court panel that he must stand trial on a misdemeanor charge.

The press groups say Friday’s case raises important issues about how appeals courts consider factual rulings made by lower courts in First Amendment cases. They say the decision in Friday’s case could influence how the press defends itself in libel cases and similar matters. The Associated Press is a member of both state press associations.

The Northern Arapaho Tribe and the ACLU also have filed in support of Friday’s reconsideration request.

U.S. District Judge William Downes in 2006 dismissed the criminal charge against Friday. The judge ruled that the U.S. Fish and Wildlife Service had shown “callous indifference” to the religious beliefs of American Indians. Downes ruled that the federal agency wouldn’t have given Friday a permit to kill the eagle even if he had applied for one.

In its ruling in May, however, the three-judge panel of the 10th Circuit reconsidered Downes’ factual findings in the case. The panel sided with government lawyers who argued that Friday didn’t have standing to challenge the federal permit system that can allow American Indians to kill eagles for religious ceremonies because Friday never applied for such a permit.

Lawyers say federal appeals courts around the country are divided on the question of when they should reconsider a district court’s factual findings in cases involving First Amendment issues. Some circuits will only reconsider a judge’s factual rulings when they are clearly in error, while other circuits will review the facts from the ground up in every case.

In its request to intervene in Friday’s case, the Colorado Press Association states that if the panel’s decision in Friday’s case is allowed to stand, newspaper publishers could face the prospect of having to defend defamation cases twice — once at the district court level and then again on appeal.

“Such uncertainty in litigation outcomes, in addition to the cost of having to defend against unmeritorious claims, could itself significantly chill the exercise of free speech rights,” the association states.

Steven Zansberg, lawyer for the Colorado Press Association, said the association is supporting Friday’s request for a rehearing by the full court “in order to determine whether or not verdicts for defendants in defamation and other such cases are entitled to deference on appeal, or are to be reviewed (over again), under independent appellate review.”

Bruce Moats, lawyer for the Wyoming Press Association, was unavailable for comment on Wednesday.

John D. Carlson, the assistant federal public defender representing Friday, was unavailable for comment Wednesday, his office said.

Indian tribe in Montana wants to exploit coal

CROW AGENCY, Mont. (AP) — They tried casinos on the Crow Indian reservation. The one designed to bring in the biggest crowds, Res-a-Vegas, went bust within a year and is now a fireworks stand.

But now the Crow are convinced a really big jackpot lies below the surface: coal.

With energy prices soaring, the poverty-stricken Crow want to tap the vast deposits underneath their 2 million acres of land. The tribe estimates the ground contains 9 billion tons of extractable coal, or enough to meet the nation’s needs for almost a decade.

“We’re not just trying to help ourselves today,” said Joanie Rowland, who directs the 12,000-member tribe’s nascent energy program. “We want to set up the reservation so that it will prosper and help the future generations.”

Federal red tape, turbulent

tribal politics that can scare off big business, and environmental worries have prevented some of the West’s impoverished tribes from fully exploiting their oil, gas and coal deposits. But now, rising demand for energy — along with new federal laws giving Indians more say over their mineral resources — could help the Crow and other tribes get their way.

“There’s a misconception about Indian tribes that they all have big gaming revenues. We don’t have that,” said tribal Chairman Carl Venne. “But we do have vast resources.” He added: “The window of opportunity is open.”

The Crow reservation lies about 60 miles from the nearest city of any consequence, Billings. It is on the remote northern edge of the Powder River Basin, which produces nearly half the nation’s coal and hundreds of billions of

cubic feet of natural gas annually.

Life on the reservation, however, is defined by a different set of numbers: 47 percent unemployment; a per capita income of just \$7,400 (one-third the national average); and federal health care subsidies that run dry six months into the year.

Much of the land on the reservation is used to grow wheat and sugar beets and raise cattle.

The tribe is looking to extract the coal and build a multibillion-dollar, coal-to-liquids plant that would process the rock into diesel and other fuels. Tribal leaders say if they could tap their underground riches, they could expand their clinic and upgrade the reservation’s aging roads and water system.

Not all the tribe’s coal remains buried. An outside

company has been extracting coal since 1974 from a mine just off the reservation. Since the tribe owns the mineral rights, it has been receiving royalties — about \$10 million last year alone.

But tribal leaders say that is not enough to relieve the reservation’s poverty. And rather than just leasing land and collecting royalties, they want to become an actual partner in such projects.

The reservation also has natural gas and oil deposits, and the tribe is working to exploit those, too, but the coal is believed to hold a much bigger potential.

Around the country, at least a dozen Indian tribes are pushing for agreements with the government that would help them exploit their oil, gas and coal, said Robert Middleton, director of the Interior Department’s Office of Indian Energy and Economic Develop-

ment.

Nationwide, energy royalties paid to tribes have doubled over the past five years, to \$475 million in 2007, according to the government’s Minerals Management Service. The increase was driven primarily by rising oil and gas prices, not by new projects. Actual production remained flat.

Two million acres of tribal land have so far been developed for oil, gas and coal, according to the government. Estimates show an additional 15 million acres have the same potential.

The Crow and other tribes received a big boost when laws governing energy development were rewritten in 2005 to give them more autonomy. The changes were meant to streamline federal approval of projects, though some tribes say they still face a two- to three-year wait for permits.

The Crow, for example, waited two years for a batch of mineral leases to win Interior Department approval. The payoff is now in sight: Nine of 10 exploratory wells drilled on the reservation this year hit natural gas.

Sen. Byron Dorgan, D-N.D., has accused the federal Bureau of Indian Affairs, which must review permit applications, of “demonstrated incompetence.”

“These areas are in such desperate need of economic development,” said Dorgan, chairman of the Senate Indian Affairs Committee. “And instead of being helpful, the federal agencies are going into their typical shell game of interminable delays.”

The BIA referred questions to the Interior Department’s Middleton, who defended the government, saying, “We think we’re making significant headway now.”

In addition to navigating the bureaucracy, tribes must reassure private companies that deals will not be sidetracked by internal politics. In the past, the Crow needed the consent of the tribe as a whole before pursuing major projects. Often, projects were approved, only to be shelved months later when public sentiment shifted.

The Crow have since amended their constitution to allow the tribe’s leadership to broker deals independently.



Associated Press

A dragline crane operates at the Westmoreland Coal mine northeast of Hardin, Mont., May 9, 2008. The company is seeking permits to extract more coal on the Crow Indian reservation, top, while the tribe wants have more control over its wealth of natural resources.

White Earth celebrate treatment facility for young people

By Tom Robertson
Minnesota Public Radio

ST. PAUL, Minn. — White Earth tribal leaders are in Bemidji Wednesday to celebrate the purchase of a 40-acre youth treatment center.

Episcopal Community Services shut down the residential center last year.

White Earth officials plan to reopen the center to provide chemical dependency and mental health treatment for American Indian young people.

Lorna Lague is White Earth’s special projects coordinator. She said the facility will provide treatment for boys and girls ages 12 to 18.

“We’re so excited about it, because it’s a missing component that we feel has been missing. There is nowhere in the state of Minnesota that a youth could go to get holistic treatment, whether it’s mental health or CD, in a cultural setting, specifically made for Native American youth. There’s not one,” Lague said.

White Earth will spend more than \$8 million to purchase and renovate the facility. The state Legislature contributed \$2 million to the project.

White Earth also received \$2 million from the Shakopee Mdewakanton Sioux Community.

American Civil Liberty Union will represent Wyoming inmate

CHEYENNE, Wyo. (AP) — The American Civil Liberties Union has agreed to represent an American Indian against the Wyoming Department of Corrections in a lawsuit that claims the state has deprived him of bald eagle feathers for use in religious ceremonies.

Andrew John Yellowbear Jr. is a member of the Northern Arapaho Tribe. He’s serving a life sentence

at the state penitentiary in Rawlins for the beating death of his 22-month-old daughter.

Yellowbear filed his own federal lawsuit early this year against the state corrections department claiming that he’s a victim of religious discrimination because he hasn’t been allowed to get the feathers. The ACLU last week filed papers saying that it will represent him.

Casino targets Seminole gaming

By Amy Driscoll
and Marc Caputo
Miami Herald

MIAMI — Pompano Park’s Isle Casino asked a federal judge Monday to halt blackjack and other new card games at the Seminole Hard Rock Hotel & Casino, citing Thursday’s Florida Supreme Court ruling that struck down the tribe’s gambling agreement with the state.

The Isle, one of three state-regulated casinos in Broward County and a Hard Rock competitor, asked for a preliminary injunction to stop the games. Blackjack, baccarat and other games began June 22 at the Hard Rock near Hollywood and have continued, despite the Supreme Court ruling.

The request comes as part of a lawsuit the Pompano Beach casino and harness track filed last month in the Northern District of Florida against Gov. Charlie Crist and U.S. Interior Secretary Dirk Kempthorne. In the suit, the casino claimed the gambling compact signed in November by the governor and the Seminole Tribe -- owners of the Hard Rock chain -- is invalid because it violates the federal Indian Gaming Regulatory Act, which allows tribes to play only games already authorized in Florida.

The Isle Casino argued to U.S. District Judge Stephan Mickle that blackjack and other so-called “banked card games” are not allowed in Florida, and the governor exceeded his authority by giving the tribe both Las Vegas-style slot machines and card games -- similar grounds to

those cited by the high court when it struck down the agreement last week. In banked card games, such as blackjack, players are pitted against the casino, rather than other players. The suit asked the judge to set aside Kempthorne’s approval of the compact, which would invalidate it.

Last week’s Supreme Court ruling said the governor couldn’t authorize card games for the tribe that are illegal in the rest of the state.

The Seminoles’ attorney, Barry Richard, and other tribe representatives met with lawyers in the governor’s office Monday to determine their next move.

“The discussion today was on whether to file a motion for rehearing or clarification,” Richard said.

He said he expected a decision by the middle of next week. The ruling by the Supreme Court doesn’t become final until July 18, Richard said. A motion for rehearing would postpone that date for weeks or months longer.

The compact allowed the tribe the exclusive right to the card games in its seven Florida casinos, and in exchange the tribe was required to give at least \$100 million a year to the state. The tribe has already paid \$60.4 million as part of the agreement. Invalidating the gambling pact would mean the money likely would have to be returned to the tribe.

The games have continued at the Hard Rock, despite the court ruling. Richard has said that the final authority on the games offered on tribal land rests with the U.S. Interior Department, not the Florida courts.

Crist said Monday that he and his legal staff are still reviewing the opinion, and said a number of scenarios are open, including asking for a rehearing, appealing or letting things slide along until he has a chance to deal with the new Legislature after November elections.

“That’s a possibility as well -- that you might want to have status quo go for a while. You know, the machines are there, obviously,” Crist said. “It seems to me that giving this some time to marinate a bit would be prudent. And that’s what I plan to do -- and then have a chance to do what is best for Florida. That’s the most important thing. Having the extra money to pay teachers more is important to me and it’s important to the Legislature.”

Outgoing House Speaker Marco Rubio won’t be in office next year, but an equally staunch gambling opponent, Republican Ray Sansom of Destin, will replace him and likely balk at any gambling expansion that includes table games like blackjack.

Rubio, the West Miami Republican who launched the suit against Crist that led to the Supreme Court decision, on Monday took issue with statements made by George LeMieux, Crist’s former chief of staff. LeMieux said the Legislature should have passed a proposed bill giving lawmakers a say in ratifying the compact. But Rubio said the Legislature has that right to begin with, and the problem was the actual compact itself and its approval of illegal gambling.