

Feds warn tribe against opening casino

The federal government has warned an Oklahoma Indian tribe not to open a planned off-reservation gambling casino along an interstate highway in southern New Mexico.

The National Indian Gaming Commission told the Fort Sill Apache Tribe on Thursday that it cannot legally open the casino and risked enforcement action if gambling is permitted on the tribally owned land in New Mexico.

The commission issued its letter a day after Gov. Bill Richardson ordered state police to block access to the tribe's casino if gambling was started. The commission is the federal regulatory agency for gambling on tribal lands.

State police are keeping an eye on the casino site, driving by on Friday, but are no longer stationed near it, said Peter Olson, a spokesman for the state Department of Public Safety. State police had been sent to the casino site Thursday but did not stop people from entering the tribal lands or a building that was to be used as a casino, said Chief Faron Segotta.

Richardson said he hoped the commission's action would end the dispute over whether the tribe could legally operate a casino in New Mexico.

„The ruling ... is crucial,“ Richardson said. „It means that there will be no illegal gaming in New Mexico.“

Fort Sill Apache Chairman Jeff Houser saw it differently.

„Our contention is that this is a preliminary determination, not a final determination by the commission,“ Houser said. He raised the possibility of a court challenge depending on the commission's final decision.

The state contends that no gambling – whether high-stakes bingo or Las Vegas-style gambling – can take place on the tribe's land at the Akela exit along Interstate 10 near Deming.

The governor said Thursday he ordered the blockade that day because the federal government hadn't ruled whether gambling could occur on the off-reservation land and the state had learned the tribe planned to open the casino for a few hours Thursday.

But Houser maintained the tribe hadn't intended to open its gaming business for six to eight weeks. He said it was uncertain what the tribe would do next.

„If there's no gaming on the site, we intend to use it for economic development," Houser said. „But in my opinion, it would be terribly unfair to be treated as a second-class tribe in the state and not be treated the same as other tribes in the state."

About a dozen tribes operate casinos in New Mexico.

The commission, in a letter to Houser, said the lands in New Mexico „on which you are constructing a gaming casino do not constitute Indian lands on which the Fort Sill Apache Tribe may conduct gaming."

Peggy Coleman, acting general counsel for the commission, said the determination was preliminary but warned the tribe not to open the casino.

„We expect to finish our analysis in the near future. At that time, it is very likely that the chairman (of the commission) will take action to close the operation if you proceed to open it. Furthermore, the tribe risks enforcement action even if it only opens for a matter of hours."

The members of the Fort Sill Apache Tribe of Apache, Okla.,

are descended from the Chiricahua and Warm Springs Apaches of southwestern New Mexico, southeastern Arizona and northern Mexico. Their ancestors were removed from those areas in the 1880s and sent first to Florida and later to Oklahoma.

At issue is land that was taken into trust by the Interior Department for the tribe in 2002, but state officials say that was done with the explicit condition that the land not be used for gambling.

Federal law prohibits gambling on Indian lands taken into trust after October 1988, except under certain conditions, such as with approval of the Interior Department and the governor of the state in which the casino would be located.

In the commission's letter, Coleman urged the Fort Sill Apaches not to make a request for an off-reservation casino. The Bush administration has rejected 22 such applications by tribes.

Richardson's opposition also could block the tribe's effort to get federal approval for a casino in New Mexico.

„As I've said, I think we have too much gaming in the state already. And especially something that is illegal is intolerable,“ said Richardson.

The tribe contends it can operate high-stakes bingo on devices that resemble slot machines – so-called Class II gaming under federal law – at the New Mexico site without state approval.

Bardacke disagreed and said no form of gambling could take place on the tribe's land in New Mexico under federal law. The tribe can operate a non-gambling business on the property, such as a gasoline station or a convenience store.

New Mexico tribes operate casinos under terms of compacts with the state. The tribes pay a share of casino proceeds to New Mexico in exchange for exclusive rights to run certain forms

of gambling, such as poker and roulette. Horse racing tracks have casinos but are limited to slot machines.

State officials said the planned casino by the Apaches could have jeopardized New Mexico's tribal-state gambling agreements.