

The Indian Gaming Regulatory Act and “Off-Reservation” Indian Gaming Proposals: A Primer

Overview

When Congress passed the Indian Gaming Regulatory Act in 1988, it envisioned gaming as a tool to promote tribal economic development and self-sufficiency. Certainly the Indian gaming industry has grown since its passage—expanding from small bingo halls in the late 1980s to an \$18.5 billion industry rivaling Las Vegas and Atlantic City. There are now 411 tribal casinos and gaming halls in 28 states.

Most of the existing Indian casinos and gaming halls operating today were authorized under IGRA’s stipulation that tribal gaming take place only on lands located within or contiguous to the boundaries of a tribe’s reservation as it existed on October 17, 1988.

However, in an effort to leave the door open for gaming by tribes with outstanding land claims and those seeking federal recognition as a sovereign tribe¹, Congress authorized in IGRA limited exceptions to the “reservation as it existed on October 17, 1988” policy, including:

- if the land is taken into trust for the tribe as part of a settlement of a land claim;
- if the land is restored to an Indian tribe whose status had been newly recognized by the federal government; or
- if the Secretary of the Department of the Interior and the Governor of the affected state sign-off on the land-into-trust for gaming proposal.²

Because most pre-IGRA tribal reservations are in relatively rural areas, few current Indian gaming operations are located in or adjacent to major urban centers. However, over the last decade, there have been an increasing number of proposals to locate Indian gaming operations near interstate highways or major urban areas. In fact, most of the off-reservation proposals in the news in 2004 were for projects near major urban areas or interstate highways.³

It is unlikely anyone could have foreseen the IGRA exceptions being used in the last decade by a few tribes and developers in a practice that has come to be known in the press as “reservation shopping.” Reservation shopping is a tactic some tribes are using to purchase property or settle land claims away from a tribe’s current reservation for the

¹ For an overview of the steps in the process of recognition, land-into-trust and approval of Indian gaming, see Attachment A. For the number of tribes applying for recognition and land into trust for gaming, see Attachment C.

² Since 1988, the Secretary has approved approximately 33 off-reservation applications – most of those were land adjacent to the tribe’s reservation. Only three times have state governors concurred in allowing a tribe to establish off-reservation gaming on newly acquired trust lands and all three proposals were in the same state as the tribe’s reservation – Michigan (2000), Washington (1997) & Wisconsin (1990)

³ See Attachment B.

sole purpose of conducting gaming. This practice has raised several significant public policy issues, including:

- pitting tribes against each other in pursuit of limited gaming revenues;
- the use of land claims to secure off-reservation gaming sites;
- conflicts between gaming proposals and state and local jurisdictions;
- the role of Congress in approving off-reservation gaming proposals;
- private developers financing off-reservation tribal casinos; and
- conflicts with existing state constitutional and statutory laws and citizen initiatives on gaming.

Tribe vs. Tribe

One of the unforeseen issues in IGRA is tribes proposing off-reservation casinos that might impact another tribe's existing gaming operation. Several tribes have come out against off-reservation Indian casinos because they conflict with existing tribal gaming operations.

For example, the Jemez Pueblo of New Mexico is seeking approval to acquire land 300 miles away from the tribe's reservation in the northern part of the state to establish an off-reservation casino. The Fort Sill Apache Tribe of Oklahoma, the Mescalero Apache Nation of New Mexico and the non-recognized Piro-Manso-Tiwa Tribe of New Mexico have criticized this proposal.

The Mescalero Tribe operates a casino in the area of the Jemez proposed casino that would be affected by the new casino. The Piro-Manso-Tiwa is based in nearby Las Cruces. Ancestors of the Fort Sill Apache Tribe of Oklahoma lived in the area before moving to Oklahoma, although some descendants live on the Mescalero reservation. The Fort Sill Apaches have considered opening a casino in New Mexico.

Similar issues and disputes have cropped up in California, New York, North Dakota and Minnesota.

The Role of Indian Land Claims

IGRA did not anticipate that a few tribes might reassert or threaten to reassert land claims as a bargaining tool to get approval of a proposed "off-reservation" gaming site. This tactic potentially clouds the title of private land owners, thereby forcing the land owners to pursue difficult litigation to protect their property rights.

For example, the Golden Hill Paugussetts is a tribal community in Connecticut that is not recognized by the federal government. In 1992, the Paugussetts filed land claims in downtown Bridgeport, and in 2002, asserted that it would claim hundreds of thousands of acres around the state if its demands for a casino were not met. While the Paugussetts

were ultimately denied federal recognition, similar tactics have been employed in Colorado⁴ and Illinois.⁵

Conflicts with State and Local Jurisdictions

Since federally recognized tribes are sovereign nations, most tribal gaming operations are exempt from local planning and zoning laws. This is rarely an issue when a tribal reservation is established and maintains a strong relationship with the local communities. It often becomes significant, however, when a tribe pursues a casino off-reservation in a community where it has no pre-existing relationship—and sometimes over the objections of local citizens and local governments.

For example, a proposed casino in Southampton, New York was tabled, in large part because it encountered significant local opposition. The Shinnecock Tribe proposed a 65,000 square foot casino, bypassing town officials in its initial planning, despite the significant local impacts generated by the casino. Town officials complained that while local development proposals must follow an application process, the tribal proposal was not subject to the same scrutiny.⁶

Indeed, IGRA creates avenues for gaming that could bypass the opposition of local communities, thereby raising some challenging public policy questions. Large gaming developments require fire, ambulatory, sewage and water services. Who pays for these services if the gaming development is exempt from state and local taxation? Should the citizens of the surrounding communities be asked to fund the services necessary to support the gaming development—such as road construction and housing development—if they had no opportunity to meaningfully participate in the gaming development approval process? While tribes may provide local governments with a portion of the gaming revenue to defray the cost of local impacts, important questions remain related to local and state jurisdiction under IGRA.

Congressional Approval of Land-into-Trust Applications

While IGRA provides the rules and a process to take land into trust for gaming purposes, there is another avenue for tribes seeking to establish gaming: explicit Congressional designation of property as Indian trust land and, therefore, eligible for gaming.

To avoid the time-consuming and costly road to securing land and approval for gaming operations, some tribes have hired connected Washington lobbyists who work with friendly Congressional members to insert language into larger must-pass legislation.

For example, in 2000 Rep. George Miller inserted a provision into an omnibus act that mandated the acquisition of land in the Bay Area of California for the Lytton Band of

⁴ See attached case study

⁵ Olson, *City Journal*, Autumn 2002

⁶ (Rick Green, “Across the Sound, A Casino War; Tribe’s Bold Battle in Hamptons Typical of Conflicts Breaking Out Nationwide, *Hartford Courant*, August 10, 2003).

Pomo Indians. The language stipulated that, for purposes of gaming, the land was to be treated as if it existed prior to the passage of IGRA.

The tribe, previously landless, has since proposed turning a card club on the property into a Class III casino with up to 2,500 slot machines. Rep. Miller is quoted as saying he still supports the tribe's right to gaming but the tribe's plan for a large casino with up to 2,500 slot machines is not acceptable for an urban area.

This example raises some of the problems with Congressional approval of tribal trust lands. As with the Lytton Band example, these legislative “riders” are typically slipped into broader legislation, meaning there is no congressional oversight or debate of the proposal. Furthermore, in this scenario, the tribe is not required to disclose its gaming plans, and the local communities do not have an opportunity to comment on the impact of the proposed gaming establishment.

These innocuous-looking, legislative “riders” often describe only the meridian coordinates of the land in question, make no mention of gaming and escape closer review when they are inserted into lengthy legislation, such as an omnibus appropriations bill.

For example, the legislative language below, drafted in 2004, would have designated Colorado property as Indian trust lands and making them eligible for gaming operations, without mentioning Colorado or gaming:

“A corporation identified in Public Law 92-203 may enter into an agreement with tribes for acquisition of up to 500 acres of land within the area described in Townships 2 South and 3 South; Ranges 62 West to 66 West of the 6th Principal Meridian to carry out the purposes of Public Law 100-497. Upon application by the parties, such lands shall be placed in the status described in 25 USC 465 and 25 USC 467 in settlement of land claims of the tribe within the state where such lands are located pursuant to Section 20(b) (1) of Public Law 100-497, provided that activities on such lands shall be subjected to all state approvals required by federal law.”

The following legislative language⁷ would have given Alaskan tribes trust status for land they acquired in the lower 48 states, allowing them to effectively bypass the standard IGRA process for such claims:

“Notwithstanding any provision of law, section 4(5) of Pub. L. 100-497 shall include those entities defined in section 3(g) of Pub. L. 92-203, and 25 U.S.C. sections 465 and 467 shall be applicable to such entities to carry out, within the continental United States, the purposes of Pub. L. 100-497. For the sole purpose of carrying out the activities permitted by Pub. L. 100-497, those entities shall be deemed to be on the list provided for in Pub. L. 103-454 and in carrying out these activities shall have the same powers, authority, status and immunities as if included on that list. The applicable Secretary, utilizing the authority provided in section 22 (f) of Pub. L. 92-203 or 1302 (h) of Pub. L. 96-487 may in his or her discretion enter into a land exchange pursuant thereto. Any

⁷ Both the language related to Colorado and Alaska were informally “floated” in November 2004 during discussions on the omnibus appropriations bill in the lame duck session of Congress.

entity defined in section 3(g) of Pub. L. 92-203 may apply, for a period of ten years from the date of enactment of this section, to the Secretary of the Interior to have title to any lands that have been or may be acquired by the entity pursuant to section 22(f) of Pub. L. 92-203, section 1302(h) of Pub. L. 96-487, or subsections 12(b)(6) or 12(b)(7) of Pub. L. 94-204, as amended, placed in the status described in 25 U.S.C. Sections 465 and 467 to carry out the purposes of Pub. L. 100-497, and the Secretary shall accept title to such lands and place them into such status forthwith, and such lands shall be deemed to have been in such status prior to October 17, 1988.”

While such riders are not common, the threat they pose is real, creating a situation where Congress inadvertently overrides the authority of local communities, governors and the Secretary of Interior to approve gaming and negotiate Indian gaming compacts.

The Role of Private Developers

Petitioning the federal government for recognition as a tribe can take years and cost millions of dollars. Purchasing property to be taken into trust for a reservation and gaming operation and the expense of building a gaming enterprise are beyond the means of most non-gaming tribes. This financial hurdle makes a private development partner critically important for tribes seeking a new gaming operation.

Some tribes seek financing from other tribes with existing successful gaming operations, while others work with established veteran private gaming operations. However, some tribes are turning to new players such as venture capitalists and real estate developers to finance the gaming approval process.

For example, a New York shopping mall developer has financed at least three off-reservation tribal claims in New York, Illinois and Connecticut. In one of the claims, a newspaper report described the developer’s rationale for funding the claim “as a business investment because of the potential to develop a casino.”⁸ This practice raises important questions such as: do these developer-financed deals serve the legitimate needs of the tribal community? Have the proper exceptions in IGRA for landless or unrecognized tribes simply become a way for developers to avoid the state and local gaming approval process? Did Congress intend for an IGRA exception to become the grounds for a new business model for gaming development?

While some developer-financed gaming deals raise important policy questions, there are also examples where private-tribal partnerships worked closely with local communities to develop gaming properties. IGRA and National Indian Gaming Commission regulations have built-in safeguards to protect tribes from abuse by unscrupulous developers.

⁸ Walter K. Olson, “Give It Back to the Indians?” City Journal, Autumn 2002

State Law and Citizen Initiatives on Gaming

Finally, IGRA did not fully contemplate the potential conflict it set up between tribal sovereignty, state law, and citizen initiatives. At the turn of the 20th century, some states began adopting laws giving greater roles in the policy-making process to referenda and citizen initiatives. In some of these states, the law now requires an affirmative decision by citizens to legalize or expand gaming. IGRA fails to fully account for this, simply requiring that federal gaming decisions remain consistent with the law of the state, meaning that if a state allows gaming, then the federal government can approve a tribal gaming proposal, but if the state has not legalized gaming, then Congress cannot approve tribal gaming in the state.

This creates a conflict: what if a state allows for limited gaming only if approved by voters? For example, the constitution of Colorado requires voter approval of any gaming expansion. Since voters approved limited-stakes gaming in 1990, the citizens of the state have rejected gaming seven consecutive times at the ballot. Colorado is not alone. The constitutions of Alabama, Michigan, Delaware, Kansas, Louisiana, Maryland, New Jersey, Rhode Island, South Dakota, and West Virginia require voter approval for certain types of gaming activities, while four other states—Montana, New Jersey, Rhode Island and Washington—have constitutional requirements for a statewide vote to authorize or expand gaming.

However, once land is taken into trust on behalf of a tribe, the tribe is authorized to conduct Class II gaming—including video bingo—without the approval of the state or local communities in which the gaming operation is established. Therefore, if Congress directly approves a land-into-trust acquisition, as it did for the Lytton Band, it could effectively usurp the authority of state constitutions and local voters to make gaming decisions for themselves.

Case Studies in Off-Reservation Gaming

Colorado

In 2004, the Native American Land Group, acting on behalf of the Cheyenne and Arapaho Tribes of Oklahoma, proposed to settle land claims for 27 million acres in Colorado in exchange for land and permission to build a casino. The Cheyenne and Arapaho Tribes argued that previously settled treaties were invalid, giving them a rightful claim to land in Colorado. The Native American Land Group proposed to pay the state 21 percent of the casino's gross revenue estimated to equal \$1 billion in the gaming center's first 10 years. By comparison, casinos in Black Hawk, Cripple Creek and Central City pay 20 percent of their gross revenue to the state.

In exchange for dropping the land claims, the settlement offer sought:

- Designation of 500 acres east of E-470 near the Denver International Airport, purchased on behalf of the tribes, as federal trust land for a \$150 million casino and extensive Colorado Plains Indian Casino Center.
- Designation of a small parcel of land in downtown Denver, also purchased on behalf of the tribes, for an Indian cultural center and a site to promote the casino.
- Funds for local roads, sewer, water and other development costs.

The settlement offer was made a day after the Native American Land Group sent letters to 150 land title companies in Colorado stating that the unresolved claims could impair the real estate market by clouding the title to land covered in the claim. The Native American Land Group hired a local lobbying firm to pitch the settlement to state and local officials. The State countered that the land claim was already resolved in the 1960s through a \$15 million judgment that tribal members accepted. The Governor, State Treasurer and other state leaders are opposed to the casino settlement proposal.

The Cheyenne-Arapaho Tribes of Oklahoma have partnered with a team of investors that includes Alaska Native corporations and several private equity firms. According to the Denver Post newspaper, the Native American Land Group would receive 39 percent of the casino's net revenues during the first six years of operation and 29 percent over the six subsequent years. The land group would fund construction of the \$150 million casino. The tribes would pay off this investment in 10 years using casino revenues.

Partners in the Native American Land Group include:

- Arctic Slope Regional Corporation
- Kuskokwim Corporation (a large Eskimo corporation in Alaska)
- Bethel Native Corporation (6th largest Alaskan Native Village Corporation)
- St. George Tanaq Corporation (represents 240 Native Alaska Eskimos)

- Council Tree Communications (generates business opportunities for Native Americans and other minorities)
- TD Capital (independent private equity arm of TD Bank Financial Group)
- Catalyst Investors (venture capital arm of the Denver-based investment bank Daniels & Associates)

Sources: The Denver Post and Project Homecoming Web site.

New York

New York is the site of two major out-of-state land claims. The Oneida Tribe of Wisconsin filed a 250,000-acre land claim covering two counties in central New York state. The Seneca-Cayuga Tribe of Oklahoma (along with the Cayuga Nation of New York) filed their claim against the state 26 years ago, alleging that 64,000 acres were wrongly taken from them through illegal state treaties and other state actions. Two years ago, U.S. District Judge Neal P. McCurn agreed and awarded the tribes \$247.9 million, a figure that includes interest, for their losses. The tribes and the state appealed, with the tribes arguing that they are owed up to \$1.7 billion while the state argued that the claim is invalid.

Subsequently, the Seneca-Cayuga Tribe has agreed to give up its portion of a \$247.9 million land claim settlement in exchange for gaming rights that would be limited to the Catskill Mountains, an area that is not within the land claim. The tribe will contribute 25 percent of net revenues from gaming to the state, comply with local and state environmental laws and collect state and local sales taxes for any goods and services sold.

Legislation was introduced in the New York legislature to approve land claim settlement agreements reached with five tribes—the Seneca-Cayuga Tribe of Oklahoma, Cayuga Indian Nation of New York, Oneida Tribe of Indians of Wisconsin, Stockbridge-Munsee Community (a Band of Mohican Indians) and Akwesasne Mohawks. The legislation authorizes the building of five casinos in the Catskills Region. According to the State's Task Force on Casino Gambling's Report to the Governor, Indian resort casinos within the Catskills Region—with its proximity to New York City—could attract over 31 million visitors annually.

The bill requires each tribe creating a casino in the Catskills to collect and remit to the State all State and local taxes in connection with all sales made by all vendors (tribal or otherwise) of alcoholic beverages, cigarettes, tobacco products, automotive fuels and all other tangible personal property and services to non-members of the tribe or nation or, alternatively, to enter into a price or tax parity or trade agreement between the State and tribal government.

In addition, the legislation provides for:

- An \$8 million annual payment to be shared equally by the counties of Seneca and Cayuga, a \$10 million annual payment to be shared equally by the counties of Oneida and Madison and a \$2 million annual payment to be shared by the counties of St. Lawrence and Franklin;
- The counties of Seneca, Cayuga, Oneida, Madison, St. Lawrence and Franklin to be reimbursed for the principal amount any unpaid real property taxes on lands held by the tribal plaintiffs in the land claims;
- The counties of Seneca, Cayuga, Madison, Oneida, St. Lawrence, and Franklin to be held harmless for any potential future losses in real property taxes resulting from lands becoming Indian country as a result of the land claim settlements;
- The counties of Seneca, Cayuga, Madison, Oneida, St. Lawrence, and Franklin to be held harmless from any estimated losses in sales or compensating use taxes attributable to a real property tax exemption that results from a price or tax parity or trade agreement that the State enters into with a tribal government.
- The bill would dedicate \$10 million in casino revenues to support compulsive gambling treatment and provide substantial financial resources for environmental protection and community enhancements by establishing two new funding mechanisms for environmental projects in the region surrounding the proposed casinos as well as statewide.
- The legislation creates the "Catskill-Shawangunk Environmental and Community Protection Fund," which will provide up to \$50 million to support open space land conservation, water quality improvement, municipal parks, historic preservation, heritage areas, agricultural and farmland protection, community protection and transportation improvements in the Catskill-Shawangunk region.
- The bill would also require that 10 percent of the State's share of the Indian casino revenues will be directed to the Environmental Protection Fund for statewide environmental projects which will enhance the State's waterfront redevelopment, municipal parks, water pollution control and open space acquisition programs. Finally, the legislation requires that an environmental impact statement with full public review be conducted for each project in accordance with the State Environmental Quality Review Act.

Source: Gov. Pataki press release

Ohio

Three Oklahoma tribes have pursued land claims in Ohio in an effort to secure land for tribal gaming. All three tribes once inhabited Ohio and seek to reclaim a portion of their ancestral land for gaming purposes.

The Eastern Shawnee Tribe currently operates a bank and a Class 2 type gambling facility in northeastern Oklahoma but is in the process of upgrading that gaming facility to include casino style table games. The tribe has also purchased options to buy land for casinos in four cities in Ohio – Lorain, Monroe (south of Dayton), Lordstown, and Botkins. The Eastern Shawnee claim to have ancestral roots in Ohio, although none of the tribe's ancestral land is located in eastern Ohio, where the tribe is focusing its efforts to secure gaming. Instead, the tribe's proposed gaming sites are closer to Pittsburgh. The tribe has reached an agreement with Monroe town officials for a \$750 million gaming venue on the interstate between Cincinnati and Dayton.

The Wyandot Tribe is considering the development of four casinos in northern Ohio, which would generate an estimated \$1 billion in revenue, while the Ottawa Tribe is examining a gaming project in Toledo. Tribal gaming proposals face significant opposition from state leaders, including the governor and members of the state legislature.

To establish gambling sites under federal law, the tribes need to prove those roots to federal authorities, a complex and time-consuming process. Even then, the tribes could conduct only bingo-style gambling under Ohio law unless they can negotiate a compact with the Governor which permits casino-style gambling in exchange for sharing revenue with the state.

A compact could include casinos on sites that are not ancestral. But it would need the Governor's approval and that of the state legislature, which has defeated repeated attempts to establish any casino-style gambling. If the tribe is unable to reach agreement with state leaders, it could ask the federal government for a claim to ancestral lands in the state. If that is approved, the tribe would gain control over the land and could establish Class 2 gambling facilities, which would permit bingo but no Las Vegas-style casinos.

Sources: Pittsburgh Post-Gazette; The Cleveland Plain Dealer

Illinois

The Ho-Chunk Nation Indian Tribe of Wisconsin has proposed building a casino and entertainment complex in Lynwood, Illinois and spent \$13.4 million to acquire land in a Chicago suburb for a possible casino. The tribe has acquired 130 acres of the 260 acres desired for the project and wants the land taken into trust.

The proposed facility would include gaming, hotels, stores, a spa, waterpark, athletic fields and other amenities. The complex would cost nearly \$1 billion and purportedly create 5,000 jobs before and after construction. Once stores open, another 4,000 to 5,000 jobs would be created according to the tribe.

Representatives of the opponents, led by the Lansing political action group Citizens for Our Community, have argued that gambling is immoral and sovereignty would give the Ho-Chunks an unfair advantage over local businesses. In addition, opponents point to a study done in Iowa that showed the number of state residents addicted to gambling grew from 1.7 percent to 5.4 percent after tribal casinos opened there and bankruptcies were 18 percent higher in counties with casinos.

Representatives of the tribe say the Ho-Chunk Nation has a "long history" in Illinois, dating back to when it ceded its land here to the United States in the 1810s. The tribe would ask Congress or the Department of the Interior to take the land into trust. The land would become exempt from property taxes after the land is taken into trust, but the tribe has indicated it is willing to sign an agreement with the local governments to ensure the facility will not have a negative fiscal impact on the jurisdictions.

Sources: The Northwest Indiana Times

Attachment A

The Road to Approval of Indian Gaming

Recognition

In order to conduct Indian gaming, a tribe must be officially recognized by the federal government. There are currently 341 federally recognized Indian Tribes in the lower 48 states, and 221 tribes in 28 States operate 411 Indian gaming facilities.

From 1934 to 1978, only forty tribes applied for federal recognition, but between 1978 and 2004, 254 tribes petitioned for federal recognition, and 238 (80 in the West) tribes are still pending a decision by the Bureau of Indian Affairs.

Taking Land into Trust

After gaining federal recognition, a tribe is then faced with the task of acquiring land for a reservation. A tribe can: petition Congress to take existing federally owned land into trust for the tribe; purchase a land parcel and petition the Department of the Interior to take the land into trust; or settle outstanding tribal land claims with private property owners and petition the Department of the Interior to take the land into trust.

The basis to place land into trust for the benefit of an Indian tribe is established either by a specific statute applying to a tribe or by section 5 of the Indian Reorganization Act of 1934 (IRA). Under these authorities, the Secretary applies his or her discretion after consideration of the criteria for trust acquisitions in regulation 25 CFR Part 151.

If a tribe is looking to take land into trust for the purposes of gaming, it must find a local jurisdiction that is receptive to the idea. Local jurisdictions are responsible for managing the infrastructure and services needed by the proposed casino, including water and sewer, fire protection and roadways. Most gaming tribes agree to share revenues and/or give grants to local communities to help offset the impacts of the proposed gaming operation.

Gaming Approval

Indian gaming is largely governed by the Indian Gaming Regulatory Act of 1988. That Act stipulates that gaming may only take place on lands located within or contiguous to the boundaries of the tribe's reservation as it existed on October 17, 1988. There are several exceptions to this stipulation written into IGRA and it is these exceptions that have provided the ability of tribes to access off-reservation gaming.

The major exceptions (IGRA Section 20) include:

- The tribe has no reservation on October 17, 1988, and “the lands are located...within the Indian tribe’s last recognized reservation within the state or states where the tribe is presently located;” or
- The lands are taken into trust as part of the settlement of a land claim; or

- The lands are taken into trust as part of the initial reservation of an Indian tribe acknowledged by the Secretary of the Department of the Interior under the Federal acknowledgment process; or
- The lands are taken into trust as part of the restoration of lands for an Indian tribe that is restored to Federal recognition.

Tribes can also pursue approval of gaming on new lands they purchase off their reservation by petitioning the Secretary of the Interior to take the land into trust and getting the Governor of that state's concurrence (IGRA Section 20 Two Part Determination for Off-Reservation Land-into-Trust)

Since 1988, the Secretary has approved approximately 33 applications that have qualified under the exceptions to section 20. That includes three determinations for off-reservation gaming on trust lands in which state governors have concurred. Those are:

- the Forest County Potawatomi gaming establishment in Milwaukee, Wisconsin;
- the Kalispel Tribe gaming establishment in Airway Heights, Washington; and
- the Keweenaw Bay Indian Community gaming establishment near Marquette, Michigan.

Currently, there are eight Off-Reservation Land-into-Trust applications pending with the Bureau of Indian Affairs (BIA) for sites in New York, Wisconsin, Michigan, Louisiana, and California. Many more have been proposed but have not yet become formal applications to the BIA. See table below and attached map.

If a tribe is recognized and has land taken into trust, it must then negotiate a gaming compact with the State and secure approval from the National Indian Gaming Commission for the proposed regulation of the gaming establishment, the types of gaming permitted at the establishment, and the use of gaming revenue by the tribe.

Attachment B

Proposals in 2004 to Take Land Into Trust for Indian Gaming			
<i>Tribe</i>	<i>Proposed location</i>	<i>Type</i>	<i>Already has gaming?</i>
Turtle Mountain Band of Chippewa	Grand Forks, North Dakota	Off-reservation	Yes
Iowa Tribe of Kansas and Nebraska	Wichita, Kansas	Off-reservation	Yes
Eastern Shawnee Tribe of Oklahoma	Lorain or Monroe, Ohio	Off-reservation	No
Warm Springs Tribes of Oregon	Portland, Oregon	Off-reservation	Yes
Lac du Flambeau Band of Chippewa	Shullsburg, Wisconsin	Off-reservation	Yes
Picuris Pueblo	Anthony, New Mexico	Off-reservation	No
Jemez Pueblo	Anthony, New Mexico	Off-reservation	No
Fort Sill Apache Tribe of Oklahoma	Anthony, New Mexico	Off-reservation	No
Ho-Chunk Nation of Wisconsin	Lynwood, Indiana	Off-reservation	Yes
Menominee Tribe	Kenosha, Wisconsin	Off-reservation	Yes
Cheyenne-Arapaho	Denver, Colorado	Land Claim	No
Timbisha Shoshone of Death Valley	Hesperia, California	Off-reservation	No
Los Coyotes Band of North San Diego	Barstow, California	Off-reservation	No
California Valley Miwok Tribe	Gilroy, California	Off-reservation	No
Narragansett Tribe	Rhode Island	Off-reservation	No
Maidu Tribe	Tehama County, California	Off-reservation	No
Sac and Fox Nation	Shawnee, Oklahoma	Off-reservation	No
Delaware Tribe of Oklahoma	Bonner Springs, Kansas	Off-reservation	No
Delaware Tribe/Delaware Nation	Pennsylvania	Off-reservation	No
White Earth & the Red Lake Ojibwe	St. Paul, Minnesota	Off-reservation	Yes
San Juan Southern Paiute Tribe (AZ)	Flagstaff, Arizona	Off-reservation	No
Alturas Indian Rancheria	Siskiyou County, California	Off-reservation	Yes
Guidiville Band of Pomo Indians	Richmond, California	Restored	No
Lower Lake Rancheria	Oakland, California	Landless	No
Scotts Valley Band of Pomo	Richmond, California	Restored	No
Seneca-Cayuga Tribe of Oklahoma	Catskills, New York	Land claim	No
Cayuga Indian Nation of New York	Catskills, New York	Land claim	Yes
Oneida Tribe of Indians of Wisconsin	Catskills, New York	Land claim	Yes
Manzanita Band of Kumeyaay Indians	Calexico, California	Off-Reservation	No

Sources: Various newspapers

Attachment C
Estimated Numbers of Applications for Tribal Recognition and Gaming Approval

	Est. # Tribal Applications	Est. # Tribes Pending	Est. # Tribes Approved
Indian Gaming			
The lands are located within or contiguous to the boundaries of the tribe's reservation as it existed on October 17, 1988;	n.a.		200
IGRA Section 20 exceptions: The tribe has no reservation on October 17, 1988, and "the lands are located... <i>within the Indian tribe's last recognized reservation</i> within the state or states where the tribe is presently located"; or The lands are taken into trust as part of the <i>settlement of a land claim</i> ; or or The lands are taken into trust as part of the <i>initial reservation</i> of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process; or The lands are taken into trust as part of the <i>restoration of lands</i> for an Indian tribe that is restored to Federal recognition.	n.a.	20	28
IGRA Section 20 Two Part Determination for Off-Reservation Land-Into-Trust	1988-1998 = 10	8	3
Congressional Action	n.a.	0	1?
Recognition			
Tribes Applying for Federal Recognition	1934-1978 = 40 1978-2004 = 254	n.a. 238 (80 in West)	

Sources: Bureau of Indian Affairs, Congressional testimony of Department of the Interior officials, WGA staff estimates

Attachment D
Summary of Recent News Clips on Indian Gaming

Ohio governor still won't meet with Oklahoma tribe (The Middletown Journal 3/24/05)

Ohio Gov. Bob Taft (R) says he won't meet with an Oklahoma tribe seeking to build off-reservation casinos in the state. Taft says he is opposed to any form of gaming. He says voters would have to amend the state constitution to allow it, and he doesn't see that happening in the near future. The Eastern Shawnee Tribe of Oklahoma is eyeing up to nine sites throughout the state for casinos. Land deals and agreements with at least three municipalities have been signed. Representatives of the tribe will be at a statewide gaming summit today.

Vote sought on off-reservation casino in Ohio (The Cincinnati Enquirer 3/22/05)

Opponents of an off-reservation casino in Ohio want the issue placed on the November ballot. The Eastern Shawnee Tribe of Oklahoma entered into an agreement with the city of Monroe for a casino near a major interstate. The tribe is promising to share revenues and pay for city services. But opponents say the deal should go through voters. They filed a petition to seek a referendum.

Kansas considers state-owned casinos (The Kansas City Star 3/22/05)

Will conservative Kansas be the first state in the nation to build and operate a publicly owned casino? Things are starting to tilt that way. Senate Bill 294 would take Kansas where no state has gone before — and dash the hopes of several Native American tribes that have proposals for casinos, most of them in Wyandotte County. Drafted by the upper chamber's new and more moderate Republican leadership, the measure would authorize the sale of state revenue bonds to finance an unspecified number of slots-only casinos and race track gambling parlors. Kansas would own the casinos and the slots, and would hire gaming companies to manage them.

State Court Is Debating the Future of Casinos (The New York Times 3/22/05)

The future of casinos and video lotteries in New York was fiercely debated at the state's highest court on Monday, with some judges expressing concern that Indian-run casinos could someday lead to roulette wheels, poker tables and craps in populous cities like Manhattan and Buffalo. During two hours of legal arguments in Albany, the state's Court of Appeals weighed the constitutionality of permitting casinos on Indian tribal lands and so-called video lottery terminals at racetracks in New York. Both types of gambling exist, including four tribal casinos. Under a 2001 state law, three more are under consideration for the Catskills and one for western New York. Their fate is at stake before the high court. Gambling opponents have sued to scuttle the 2001 law as a violation of the New York Constitution, which bans most gambling beyond some explicit exceptions like the state-run lottery, church bingo and charity-benefit casino nights.

Ohio summit on gaming includes Oklahoma tribe (The Akron Beacon Journal 3/21/05)

Efforts by the Eastern Shawnee Tribe of Oklahoma to open casinos in Ohio will be considered at the Ohio General Assembly's first statewide summit on gaming. The tribe is eyeing up to nine sites across the state for off-reservation casinos. Some land deals and agreements with municipalities have already been secured. The tribe's efforts will be considered along with other proposals to expand gaming in the state. The issue may be put to voters in November.

California tribe denies off-reservation casino bid (Copley News Service 3/21/05)

Officials of the Shasta Nation want a California man to stop soliciting investors for an off-reservation casino outside of Los Angeles. The tribe is based in northern California and is not federally recognized. But tribal leaders acknowledge they are seeking financial help for gaming projects should they gain federal status. However, the officials say Tom Kelly is not authorized to raise funds for a \$7.5 million casino supposedly near Magic Mountain. They say the tribe would never seek a casino outside of their aboriginal area.

Tribes oppose off-reservation casino in New Mexico (Albuquerque Journal 3/18/05)

Three tribes spoke against an off-reservation casino in southern New Mexico at a Bureau of Indian Affairs hearing on the proposal. Jemez Pueblo is seeking approval to acquire land for gaming. The tribe's reservation is 300 miles away in the northern part of the state. Representatives of the Fort Sill Apache Tribe of Oklahoma, the Mescalero Apache Nation of New Mexico and the non-recognized Piro-Manso-Tiwa Tribe of New Mexico criticized the plan. They said Jemez has no historical ties to the area. Fort Sill Apache ancestors lived in the area before being removed to Oklahoma, although some descendants live on the Mescalero reservation. The Fort Sill Apaches have considered opening a casino in New Mexico. The Mescalero tribe operates a casino in the area that could be affected by the Jemez casino. The Piro-Manso-Tiwa is based in nearby Las Cruces.

Landless tribe criticizes off-reservation casino bill (Riverside Press-Enterprise 3/18/05)

Lorie Jaimes, the chairwoman of the Greenville Rancheria of Maidu Indians from California, testified against a proposed bill to limit off-reservation casinos. Jaimes said the bill proposed by Rep. Richard Pombo (R-California) would give local communities too much authority over tribal development. She said it would negatively impact her tribe, whose federal recognition was restored after being terminated by Congress. The tribe currently has no land in trust. As a restored tribe, the tribe is granted an exemption under the Indian Gaming Regulatory Act to open a casino on newly acquired lands but Pombo's bill would modify this provision.

San Manuel chairman says Pombo bill not enough (Riverside Press-Enterprise 3/17/05)

The chairman of the San Manuel Band of Mission Indians says a proposed bill by Rep. Richard Pombo (R-California) won't do enough to stop the spread of off-reservation casinos. Deron Marquez wrote a letter about Pombo's draft that would limit off-

reservation casinos to no more than two "Indian Economic Opportunity Zones" per state. Marquez said the idea will encourage more reservation shopping. Marquez has been leading an effort among some California tribes to curb off-reservation casinos.

New York officials fear off-reservation bill (Ottaway News Service 3/17/05)

Officials in New York are worried that a bill by Rep. Richard Pombo (R-California) will kill plans for five off-reservation casinos. New York Gov. George Pataki (R) settled land claims with five tribes, including three from out-of-state, for casinos in the Catskills. Officials say Pombo's bill could hurt the plan because the tribes have no historical connections to the Catskills. Pombo, chairman of the House Resources Committee, is holding a hearing today on the issue. Among those to testify is the United South and Eastern Tribes, which voted against casinos for out-of-state tribes in New York.

California bill imposes ban on new casino compacts (Copley News Service 3/17/05)

A California lawmaker has introduced a bill to seek a moratorium on new tribal gaming compacts for three years. Assemblyman Joe Nation is proposing a constitutional amendment to ban new casinos until 2008 and create a commission to study the effects of gaming. To go into effect, the amendment would need approval by voters in the state.

South Dakota tribal gaming compact bill killed (Indian Country Today 3/16/05)

The South Dakota House killed a bill that would have required legislative approval of tribal-state compacts that seek to expand gaming. All eight of the state's gaming tribes opposed the bill, as did Gov. Mike Rounds (R). Since the existing process works well, they argued it doesn't need to be changed. Supporters of the bill argued the public should have a say on the compacts. Other states require legislative approval of compacts although in some cases it is merely ministerial.

Navajo community in Arizona eager to host casino (The Associated Press 3/14/05)

A Navajo Nation community in Arizona has authorized a study of a casino that would be located near a major interstate. The Leupp chapter is proposing a 600-slot machine casino near I-40. Leupp is about 50 miles outside of Flagstaff. Local leaders say their location is ideal for one of five casinos recently authorized by the Navajo Nation Council. A previously authorized casino is in the works off of I-40 near Albuquerque, New Mexico.

Congress steps into off-reservation casino fight (The San Francisco Chronicle 3/13/05)

Efforts are growing in Congress to somehow curb or limit off-reservation casinos. Sen. John McCain (R-Arizona), chairman of the Senate Indian Affairs Committee, plans to hold hearings on the issue this spring. He warned the National Congress of American Indians recently of the "backlash" against casinos in "areas never contemplated" by federal law. Rep. Richard Pombo (R-California), chairman of the House Resources Committee, is also taking up the debate. He is circulating a draft of a bill that would limit off-reservation casinos to up to two "Indian Economic Opportunity Zones" per state.

State to investigate off-reservation casinos (Cox News Service 3/11/05)

Ohio state attorney general Jim Petro plans to investigate three off-reservation deals signed by the Eastern Shawnee Tribe of Oklahoma. Meanwhile, Sen. George Voinovich (R-Ohio) said he is working on legislation to block the tribe from opening a casino in the state. The tribe has signed agreements with three cities across the state. Petro is questioning whether they are constitutional. The tribe is eyeing up to nine sites for casinos. But Voinovich said "we're going to go out there and chop it off" if the proposal moves forward.

Oregon tribe considers racino project in Portland (The Associated Press 3/11/05)

The Confederated Grande Ronde Tribes are in preliminary talks to turn a racetrack in Portland, Oregon, into a "racino." The tribes and the operator of the Portland Meadows want to add slot machines to the facility. But some, including Gov. Ted Kulongoski (D), question the idea. The tribes already operate a successful casino on the reservation.

Gaming headed to the polls in yet another state (The Morning Journal 3/10/05)

Proponents of gaming in Ohio are proposing to hold a statewide vote that could affect plans by the Eastern Shawnee Tribe of Oklahoma. Two ballot initiatives are being prepared to clear the way for casinos in large cities and slot machines at racetracks. The proposals would bypass the tribe's efforts to open casinos throughout the state. Officials have been welcoming of the tribe but are concerned that the process for approving off-reservation gaming takes too long, costs too much and could be curbed by efforts in Congress. The Senate Indian Affairs Committee and the House Resources Committee will take up the issue this year.

Wisconsin city approves deals for off-reservation casino (The Associated Press 3/9/05)

The city council in Kenosha, Wisconsin, approved two agreements for the Menominee Nation's proposed off-reservation casino. The tribe agreed to share revenues with the city and reimburse the city for municipal services. The council voted 13-2 to approve the agreements. The tribe wants to convert an old dog track into a Class III casino. The tribe has asked the Bureau of Indian Affairs to place the land in trust but the Forest County Potawatomi Tribe, which operates a casino in Milwaukee, is opposed.

Ohio city approves casino deals with Oklahoma tribe (The Morning Journal 3/8/05)

The city council in Lorain, Ohio, approved two off-reservation casino agreements with the Eastern Shawnee Tribe of Oklahoma. The council voted 9-1 on the tribe's land deal and on an agreement to share gaming revenues. An amendment bars the tribe from conducting Class II gaming if Class III gaming is rejected by the state. The tribe is eyeing up to nine sites throughout Ohio.

Growing efforts against off-reservation casinos (The Fresno Bee 3/7/05)

Efforts in California are growing against off-reservation casinos. The Fresno County Board of Supervisors is being asked to oppose any off-reservation casino in the county. The effort is seen as a criticism of an off-reservation proposal in Madera County. Separately, a University of California at Berkeley economics professor and a Sierra Club lawyer have introduced a ballot referendum to bar casinos within a 15-mile radius of an

"urban" area as defined by the 2000 census. It would void any compact for an urban casino that might be approved this year and would require the Legislature to approve gaming compacts by a 2/3 vote. Lawmakers in the Bay Area are also working on a ballot referendum to halt casino development. The Lytton Band of Pomo Indians is trying to open a casino in San Pablo and at least three other tribes are interested in the area.

Another California tribe considers off-reservation casino (San Diego Union Tribune 3/7/05)

The Manzanita Band of Kumeyaay Indians is proposing a hotel and casino in the city of Calexico. But before the tribe moves forward, the city will hold a non-binding referendum to gauge public support for the idea. The Manzanita Band is working with the Viejas Band of Kumeyaay Indians, which operates a successful casino. Plans call for 2,000 slot machines, 45 card tables, three restaurants and 200 hotel rooms.

Gov. Bush campaigns against slot machine initiative (The Associated Press 3/5/05)

Florida Gov. Jeb Bush (R) campaigned against a slot machine initiative on the ballot in two counties tomorrow. Bush said gaming is not good for communities. "It limits our aspirations and defines us in a way that we should not be happy with," he was quoted as saying. Voters in Miami-Dade and Broward counties appear likely to approve slot machines anyway. The money would be used to fund public education. Regardless of the way the vote turns out, the Miccosukee Tribe and the Seminole Tribe say they will be able to offer slot machines. The Miccosukee Tribe has already asked Gov. Bush to negotiate a Class III compact but he hasn't responded.

Tribe's \$5.5M payment brings out complaints (The Riverside Press-Enterprise 3/4/05)

The San Manuel Band of Mission Indians is giving \$5.5 million to San Bernardino, California, every year but some residents don't think the money is worth it. The residents complain that the tribe's new casino expansion has increased crime, traffic, noise and other problems. They say the yearly payment isn't enough to offset the impacts. The city is holding meetings to decide how to spend the \$5.5 million.

Three Ojibwe bands to open urban casino with state (The Minneapolis Star Tribune 3/4/05)

Three remote Ojibwe bands in Minnesota have agreed to partner with the state for a casino in the Twin Cities. The White Earth, Leech Lake and Red Lake Indian bands negotiated with Gov. Tim Pawlenty (R) to split profits with the state. The tribes have long sought an urban casino because their on-reservation operations don't generate much profit. The deal is going to be announced today. It requires approval by the State Legislature. It appears that the casino will not require federal action because it will be state-sponsored venture. Leaders of other Minnesota tribes oppose any urban casino. They are upset that Pawlenty promised not to expand gaming in the state. He tried to force them to give \$350 million in casino revenues every year.

Wyoming is granted rehearing in lawsuit (The Associated Press 3/2/05)

The state won a rehearing before the full 10th U.S. Circuit Court of Appeals in Denver in its attempt to prevent the Northern Arapaho Tribe from offering high-stakes, Las Vegas-

style casino gambling. The decision was a setback for the tribe, which has laid the foundation for a new casino two miles south of Riverton.

Pechanga Band moves forward with gaming lawsuit (The Riverside Press-Enterprise 3/1/05)

The Pechanga Band of Luiseño Indians is moving forward with a lawsuit that challenges the state of California's attempt to limit the number of gaming machines at tribal casinos. The tribe lost a request for a temporary injunction to stop the California Gambling Control Commission from implementing a ruling issued last week. But U.S. District Court Judge William J. Rea said the lawsuit could proceed. The tribe is fighting the commission's interpretation of "gaming device." Under the new definition, each player station at video lottery terminal offered by the tribe would be considered a gaming device. Since the tribal-state compact limits each tribe to 2,000 gaming devices, the change would put the Pechanga Band over the limit.

10th Circuit to rehear Wyoming tribe's gaming case (The Associated Press 3/1/05)

The 10th Circuit Court of Appeals has agreed to rehear the Northern Arapaho Tribe's Class III gaming case. A three-judge panel unanimously ruled last November that the tribe is entitled to offer all forms of Class III gaming. The court held that the state negotiated in bad faith for a tribal-state compact. The state says the tribe is limited to a handful of Class III games, but not slot machines. The state asked for the rehearing.

Comments sought on off-reservation casino bid (The Associated Press 2/28/05)

The Bureau of Indian Affairs is preparing an environmental impact statement on a New Mexico tribe's proposal for an off-reservation casino. Jemez Pueblo and art dealer Gerald Peters are planning a 24,000-square-foot temporary casino on 111 acres in the southern part of the state. The temporary facility would be replaced by a 48,000-square-foot casino plus a hotel.

Lobbyist doesn't expect off-reservation bill to pass (The Santa Fe New Mexican 2/27/05)

Efforts to bar or limit off-reservation gaming won't pass in Congress, a lobbyist who represents tribes says. Sen. John McCain (R-Arizona), chairman of the Senate Indian Affairs Committee, and Rep. Richard Pombo (R-California), chairman of the House Resources Committee, are said to be planning bills to make it harder, or impossible, for tribes to acquire land far away from their reservations or in other states. But Heidi Staudenmaier, a senior partner at Snell & Wilmer, told The Santa Fe New Mexican that tribes will be able to defeat the proposal. She said "the tribes have a powerful lobby, and most people that follow this sort of thing aren't giving it a high possibility to pass." McCain has said he will hold a hearing on off-reservation gaming. Pombo held two hearings on the subject last year.

Eastern Shawnee Tribe makes another land deal (The Akron Beacon Journal 2/25/05)

The Eastern Shawnee Tribe of Oklahoma has made another land deal in hopes of building a casino in Ohio. The tribe has plans to buy 137 acres in Lordstown off the Ohio Turnpike. Local officials support the deal and approached the tribe about hosting a

casino. The tribe already closed on land deals in three other locations in the state. As many as nine sites are being eyed.

Kansas threatens suit over slot machine inspection (The Kansas City Star 2/24/05)

The state of Kansas is threatening to sue the Sac and Fox Nation over a disagreement about slot machine inspections at the tribe's casino. The state and the tribe are in arbitration over the inspections. But state attorney general Phill Kline gave a deadline of March 4 to resolve the matter before going to court. The inspections are allowed under the tribal-state compact. Kline said he may have to ask the court to declare the tribe in breach of the compact.

Pechanga Band to sue state over gaming limits (Reuters 2/24/05)

The Pechanga Band of Luiseno Indians plans to sue the state of California over limits placed on the number of gaming machines at tribal casinos. The California Gambling Control Commission issued a ruling last week that redefined "gaming device." The ruling affects multi-player video lottery terminals that the tribe offers at its casino. Under the new definition, each player station would be considered a gaming device. Since the tribal-state compact limits each tribe to 2,000 gaming devices, the change would put the Pechanga Band over the limit.

Crossing state lines for gaming? Think again (Indian Country Today 2/23/05)

The Sullivan County (N.Y.) Legislature voted by a 6 - 3 margin on Feb. 10 to support Gov. George Pataki's plan to pack the rural county with five, rather than three, Indian casinos - at least three of which would be owned by tribes currently based outside New York state. The Pataki plan may soon face a more formidable obstacle. The Albany Times-Union on Feb. 13 reported that Rep. Richard Pombo, R-Calif., plans to introduce federal legislation that would prohibit tribal governments from crossing state lines for gaming purposes. The congressman may reportedly include a provision requiring tribes to have ancestral connection to any land put into trust for gaming operations. The Pombo bill already has the support of the United Southern and Eastern Tribes (USET), a 24-member tribal coalition, as well as tribal leaders in New York.

Tribes: Casinos illegal (The Topeka Capital-Journal 2/23/05)

An attorney for tribes working with Gov. Kathleen Sebelius on a casino deal Tuesday claimed nontribal, "destination" casinos contemplated in two Senate bills were unconstitutional.

Montana tribe to bring high-tech, high-stakes version of bingo to casino (The Missoulian 2/22/05)

The Confederated Salish and Kootenai Tribes of Montana are installing Class II machines as part of a \$1.5 million expansion project. The casino will offer 20 Rocket Bingo machines for a six-month trial period. If the machines prove successful, 40 or more might be installed when the casino expands. The Blackfeet Nation saw success with its Rocket Bingo and is planning a \$3.5 million casino with 250 machines.

New Mexico tribes want to renegotiate compacts (The Albuquerque Journal 2/18/05)

Tribes in New Mexico have asked Gov. Bill Richardson (D) to renegotiate their gaming compacts. The tribes will meet with Richardson to discuss the compacts. It was not reported what changes are being proposed. At one point, the tribes asked to offer free food and hotel rooms to customers. Richardson said he would agree if the tribes share more of their revenues. Depending on size of their facility, the tribes pay up to 8 percent of revenues.

Tribe finds partners for off-reservation casino (The Grand Forks Herald 2/17/05)

The Turtle Mountain Band of Chippewa has entered into a development and management partnership for an off-reservation casino near Grand Forks, North Dakota. The tribe is working with the Useldinger brothers, who are offering 400 acres south of the city for the project. The Useldingers will also help pay for a study of the economic impact of the casino. The tribe needs state and federal approval for off-reservation gaming. Other tribes in the state are opposed to the idea.

Casino deal's ethics disputed (Times Union 2/17/05)

Legal dispute points out millions in lawyers' fees, possible conflicts. A lawyer representing the Cayuga Indian Nation is getting hundreds of thousands of dollars in legal expenses paid for by the tribe's proposed casino developer and stands to make \$60 million if the Catskills project is accomplished, according to documents filed in response to a lawsuit.

Governor not seen as obstacle in Ohio casino deal (The Middletown Journal 2/17/05)

Ohio Gov. Bob Taft (R) says he's opposed to the expansion of gaming but his position won't necessarily hurt the Eastern Shawnee Tribe's casino plans, according to some law professors. Blake Watson, a University of Dayton law professor and former Department of Justice attorney who work on Indian gaming, pointed out that Taft only has two years left in his final term. He said the Oklahoma tribe's chances of success "are becoming better and better." The tribe is eyeing as many as nine casino sites throughout the state.

Schwarzenegger suggests tribes in breach of pact (Copley News Service 2/17/05)

California Gov. Arnold Schwarzenegger (R) is suggesting that some tribes may be in breach of the tribal-state compact for offering more than 2,000 gaming devices. Schwarzenegger's spokesperson cited a ruling from the California Gambling Control Commission. The ruling concluded that each player station at a multi-terminal gaming system is a "gaming device."

That puts the Pechanga Band of Luiseno Indians and the Morongo Band of Mission Indians at risk of violating a provision of the compact that limits each tribe to 2,000 gaming devices. The Pechanga Band is reportedly 91 devices over the limit and has filed a lawsuit to block the ruling. In a separate action, the commission issued a ruling [PDF] defining the "net win" of slot machines. Tribes had proposed an alternate definition that would have required them to pay less to the state.

Chumash tribe and county agree on trust land (KSBY 2/14/05)

After years of acrimony, the Santa Ynez band of Chumash Indians and Santa Barbara County have come to an agreement on the tribe's land-into-trust request. The Bureau of Indian Affairs approved the tribe's acquisition of 6.5 acres. The county was considering an appeal. But under an agreement reached on Monday, the tribe will limit development on the land to a cultural center and retail space. The tribe will not use it for gaming. The land sits across from the tribe's casino.

McCain criticizes off-reservation acquisition (The Contra Costa Times 2/11/05)

Sen. John McCain (R-Arizona), the new chairman of the Senate Indian Affairs Committee, criticized an off-reservation land acquisition for a California tribe. The landless Lytton Band of Pomo Indians was able to obtain 9.5 acres in the Bay Area through a Congressional rider. The rider, slipped into an omnibus bill, backdated the acquisition so the tribe wouldn't have to follow the more stringent provisions of the Indian Gaming Regulatory Act. "I think it was wrong the way that this tribe was allowed to do it. I don't think that's the proper process," McCain was quoted as saying. "How do we fix that, I'm not sure." Sen. Dianne Feinstein (D-California) has introduced a bill to make the tribe go through the IGRA process. McCain promised a hearing on the matter.

Former Bureau of Indian Affairs official helping California tribe with casino (The Siskiyou Daily News 2/10/05)

Former Bureau of Indian Affairs official Wayne Smith is helping a small northern California tribe develop a casino. The Alturas Rancheria, which only has five adult members, already operates a casino. A second, larger facility is in the works on 160 acres of trust land outside of Yreka. Smith has been attending public meetings to speak about the plan. He worked on gaming issues during his tenure at the BIA before he was ousted in May 2002 through a smear campaign orchestrated by supporters of another small California tribe that wants to build a casino.

Casino proposal idling: Indian plan near DIA to rev up later in '05 (Rocky Mountain News 2/10/05)

Proponents of an Indian casino east of Denver say their project is now on the back burner but that they will fire it up again later this year. Although the federal government and Gov. Bill Owens initially rejected the plan, the proposed 500-acre casino near Denver International Airport will move ahead soon, the head of an investment firm said Wednesday.

Narragansett Tribe to unveil gaming referendum (The Providence Journal 2/9/05)

The Narragansett Tribe of Rhode Island is making another attempt to open a Class III casino. The tribe and its supporters are unveiling new legislation that would put the casino on the November ballot. Last year's proposal was struck down by the state Supreme Court before it even got to the voters. Gov. Donald Carcieri (R) opposes the casino.

City council in Ohio approves tribal casino deal (The Middletown Journal 2/9/05)

The Monroe, Ohio, city council voted 6-1 on Tuesday night to enter into an intergovernmental agreement with the Eastern Shawnee Tribe of Oklahoma for a \$750 million casino resort. Monroe is one of as many as seven locations throughout the state being eyed by the tribe. The Monroe site is located near a major interstate. The tribe wants to negotiate a Class III compact for the casinos but Gov. Bob Taft (R) says he is opposed to the expansion of gaming.

Tribe's Bay Area casino proposal stirs debate (The Daily Californian 2/8/05)

The Lower Lake Rancheria Koi Nation says a casino in Oakland, California, will save its culture while providing jobs and revenues for the local community. The landless tribe is seeking approval to have land near the Oakland International Airport placed in trust. The tribe envisions a 35-acre entertainment facility with 2,000 slot machines that will create 4,400 jobs and to add \$1 billion annually to Oakland's economy. The Koi Nation was placed back on the list of federally recognized entities in January 2001 after the Bureau of Indian Affairs determined that the tribe was never terminated.

Eastern Shawnee Tribe seeks several casino sites (The Pittsburgh Post-Gazette 2/4/05)

The Eastern Shawnee Tribe of Oklahoma has an ambitious plan to build anywhere from seven to nine casinos in Ohio. One would be located near the Pennsylvania border that would attract gamblers from the Pittsburgh area. The \$300 million casino could compete with racetracks that now have the legal authority to offer slot machines under a new state law. The tribe says it will share revenues with the state. Gov. Bob Taft (R) is opposed to more gaming.

Two tribes talk with Cleveland mayor about casino (The Cleveland Plain-Dealer 2/2/05)

Representatives of two tribes met with Cleveland, Ohio, Mayor Jane Campbell to discuss an off-reservation casino. A consultant for the Eastern Shawnee Tribe of Oklahoma said a casino in Cleveland could be a viable alternative to a statewide gaming referendum Campbell is proposing. The city is in need of cash and the tribe is looking at sites throughout Ohio for a casino. Campbell also met with representatives of another tribe, identified only as "Wyandot," which could mean the Wyandotte Nation of Oklahoma. The tribe has tried to open a casino in Kansas.

New Mexico bill challenges off-reservation casino (The Albuquerque Journal 2/2/05)

A New Mexico Democrat introduced a bill that would allow gaming in hotels, bars, restaurants and convenience stores if the state governor ever approves an off-reservation tribal casino. State Sen. John Arthur Smith said he wanted to "make certain the message is very, very clear" on off-reservation casinos. "It's a shot over the bow," he told The Albuquerque Journal. As many as three tribes are interested in an off-reservation casino in southern New Mexico. Jemez Pueblo has asked the Bureau of Indian Affairs to take land into trust for gaming purposes. Picuris Pueblo and the Fort Sill Apache Tribe of Oklahoma are considered casinos as well.

Act seeks to bar urban casinos (Contra Costa Times 2/1/05)

Opponents of urban Indian casinos, such as one planned for San Pablo, are pushing for a ballot initiative that would try to bar the Legislature from approving tribal gaming halls near population centers. Proponents of the "The No Urban Casino Act" have filed paperwork with the Attorney General's office, one of many steps necessary to qualify an initiative for the ballot.

County won't fight decision on trust land for casino (The Kitsap Sun 2/1/05)

Commissioners in Kitsap County, Washington, agreed on Monday not to challenge the Bureau of Indian Affairs' decision to allow gaming on land held in trust for the Suquamish Tribe. The commission heard debate on both sides of the issue. But after an executive session that apparently went into the night, the commissioners said they had no basis to appeal. On January 18, the BIA published a notice in the Federal Register to allow gaming on 12.72 acres held for the Suquamish Tribe. The decision came after more than two years of review.

Wyoming legislature after more say in Indian gambling (The Associated Press - 1/28/05)

A committee on Friday endorsed a bill that would give the Legislature final say over gambling compacts negotiated between the governor and American Indian tribes.

House Bill 222, recommended 9-0, would have no affect on current litigation between the Northern Arapaho tribe and the state over what types of gambling can be offered on the Wind River Indian Reservation, according to Rep. Patrick Goggles, D-Ethete, a co-sponsor and a Northern Arapaho tribal member. "This would affect any future negotiations," he told the House Travel, Recreation, Wildlife and Cultural Resources Committee.

Out-of-state tribes' legal rights questioned (The Citizen 1/28/05)

The historic Haudenosaunee nations, including the Cayuga Nation, have the legal right to prevent the unilateral movement of foreign Indian nations into their historic territory. Robert Odawi Porter made that assertion Tuesday during a conference in Albany sponsored by The Center for Indigenous Law, Governance and Citizenship at Syracuse University Law School. Porter is a Seneca Indian and director of the center. The conference explored the impact out-of-state tribes could have on tribes considered indigenous to New York, if the pending gaming compacts with three-out-of-state tribes are executed.

New San Manuel Band casino worries neighbors (San Bernardino County Sun 1/28/05)

The San Manuel Band of Mission Indians is opening a new \$300 million casino today but some neighbors aren't celebrating. The tribe built the casino on an area of its reservation bordering a residential neighborhood. Homeowners say traffic, noise and crime will only worsen.

California tribes debate 'reservation shopping' (The Riverside Press-Enterprise 1/27/05)

Two California tribes are taking steps to prevent others from opening casinos off existing reservations. The Pechanga Band of Luiseño Indians, which operates a casino on its reservation, is opposing a Bay Area casino sought by the Lytton Band of Pomo Indians. The Lytton Band obtained the land through a Congressional rider and didn't go through a lengthy federal and state review process. Also, the San Manuel Band of Mission Indians is drafting legislation to curtail "reservation shopping," said its chairman. The tribe is holding a meeting on Friday to discuss the trend among California tribes.

Sac and Fox Nation in dispute with state regulators (The Kansas City Star 1/27/05)

The Sac and Fox Nation and the state of Kansas are disputing whether the state can inspect slot machines at the tribe's casino. The tribe's gaming commission has restricted state access to casino games and casino records. So state inspectors haven't determined whether the machines are operating in compliance with the tribal-state compact.

Kansas governor to wait on urban casino compact (The Topeka Capital Journal 1/27/05)

Kansas Gov. Kathleen Sebelius (D) will wait to pursue a compact she signed with two tribes for an urban casino, her chief legal aide said. The compact with the Kickapoo Tribe and the Sac and Fox Tribe was not approved by a legislative committee. That didn't kill the deal but it requires Sebelius to take the compact to the full Legislature. The tribes want to open a casino outside of Kansas City and share revenues with the state. The tribes already operate casinos on their reservations.

Casino issue unites 4 counties (Press Democrat 1/25/2005)

Sonoma joins Napa, Solano, Yolo in coalition to lobby for limits on gaming proliferation in area Sonoma County is teaming up with three other Northern California counties to create an unprecedented coalition aimed at restricting the development of Indian casinos.

Feinstein targets off-reservation casino (The Associated Press 1/25/05)

Sen. Dianne Feinstein (D-California) introduced legislation on Monday to force a California tribe to obtain state and federal approval to conduct gaming in the Bay Area. The Lytton Band of Pomo Indians is planning a Class III casino on 10 acres in the city of San Pablo. The tribe acquired the land through an act of Congress that backdated the acquisition to October 17, 1988. The backdate was crucial because the Indian Gaming Regulatory Act requires extensive local and state consultation for acquisitions after that date. The tribe must go through a lengthy review process before conducting gaming on the land.

New Mexico tribe won't install Class II machines (Albuquerque Journal 1/21/05)

A northern New Mexico pueblo will not install 26 Class II machines under an agreement with the state. San Juan Pueblo Gov. Joe Garcia, who entered office this month, announced the agreement with Gov. Bill Richardson (D), who had opposed the use of the machines because the state would not get a share of the revenues under the tribal-state compact. The compact requires tribes to share up to 8 percent of slot machine revenues.

Turtle Mountain Band to pitch off-reservation casino (The Grand Forks Herald 1/20/05)

The Turtle Mountain Band of Ojibwe will hold a public meeting next week to promote an off-reservation casino in Grand Forks, North Dakota. Other tribes in the state oppose the idea, saying it will hurt their existing casinos. The Turtle Mountain Band operates a casino on its reservation.

Kulongoski opposes private casino proposal (The Associated Press 1/19/05)

Gov. Ted Kulongoski opposes a planned ballot initiative that would allow a private casino to be built in the Portland area. The facility would have up to 3,500 video gaming terminals run by the state lottery. The state would get 25 percent of the gambling revenue. The developers want legislators to put a measure on the ballot that would ask voters to overturn Oregon's constitutional ban on casinos.

Tribe in talks over downtown Milwaukee casino (Milwaukee Business Journal 1/17/05)

The Forest County Potawatomi Tribe is in preliminary talks over a casino in downtown Milwaukee, Wisconsin. The tribe already operates a casino in the Milwaukee area and is planning a \$240 million expansion. But the project is on hold pending negotiation of new gaming compact with the state. The old compact was challenged in court.

Klamath Tribes renewing effort to regain homeland (Klamath Falls Herald 1/17/05)

The Klamath Tribes of Oregon are renewing an effort to restore the homeland they lost after being terminated by the federal government. The tribes were terminated in 1954. At the time, the Klamath homelands covered about 1.2 million acres. The tribes were restored federal status in 1986 but still haven't regained their land base. Tribal leaders have a plan to reclaim about 690,000 acres of what is now federal forest land. Talks with the Bush administration are on hold pending resolution of water rights in the Klamath Basin.

Schwarzenegger won't talk to tribe about compact (San Diego Union-Tribune 1/17/05)

California Gov. Arnold Schwarzenegger (R) won't negotiate a compact with the Jamul Indian Band, citing local opposition and other concerns. The small tribe wants to add 101 acres to its six-acre reservation. Schwarzenegger said he opposed the location due to public safety and environmental concerns. During public meetings, local officials and residents told the Bureau of Indian Affairs they opposed the tribe's land-into-trust request.

Details of off-reservation casino revealed (Wichita Eagle 1/16/05)

The Iowa Tribe of Kansas and Nebraska released details of a proposed off-reservation casino in Wichita, Kansas. The tribe needs to negotiate a compact and ask for the land to be placed in trust.

Oakland city officials wary of proposed casino (San Francisco Chronicle 1/11/05)

A resolution is being introduced in the Oakland, California, City Council to oppose a casino proposed by the Lower Lake Rancheria-Koi Nation. At least four members of the

council oppose the casino. They say it would lead to crime and traffic, increase gambling addictions and harm the environment. The 30-member tribe is proposing a hotel and casino on 35 acres near the Oakland International Airport. The tribe says it will give \$11 million to the city every year. The tribe has no land base. The tribe was placed back on the list of federally recognized entities in January 2001 after the Bureau of Indian Affairs determined that the tribe was never terminated.

Wisconsin tribes debate fate of off-reservation casino (Minneapolis Star Tribune 1/11/05)

Three Wisconsin tribes have to decide whether to resubmit a land-into-trust application for an off-reservation casino now that the U.S. Supreme Court on Monday ended their legal challenge. The Red Cliff, Lac Courte Oreilles and Mole Lake Chippewa tribes gained federal approval in 2001 to convert a dog track into a casino. But then-Gov. Scott McCallum (R) vetoed it, saying he opposed expansion of gaming. The tribes filed a lawsuit challenging whether the veto was constitutional. The 7th Circuit Court of Appeals ruled against the tribes last year. The Supreme Court yesterday said it would not take the case.