

December 18, 2014

Volume 20, Issue 34

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# The MICHIGAN GAMING Newsletter



## **PARTIES AGREE TO DISMISS CLAIMS IN LANSING CASINO LAWSUIT**

On December 3, 2014, the U.S. District Court for the Eastern District of Michigan agreed to dismiss four claims made by the State of Michigan in its lawsuit against the Sault Ste. Marie Tribe of Chippewa Indians ("Tribe") over its proposed casino development in Lansing. The parties jointly sought the dismissal of certain claims following the decision of the U.S. Court of Appeals for the Sixth Circuit on the matter, which held that the State was precluded from bringing certain claims against the Tribe, in part, because of the Tribe's sovereign immunity and that the claims were not ripe for adjudication.

At issue in the litigation is whether the Tribe can apply to have certain parcels of property in Lansing taken into trust by the U.S. Secretary of the Interior before it obtains written revenue sharing agreements with the other federally recognized Indian Tribes in Michigan pursuant to Section 9 of the Tribe's Tribal-State Gaming Compact with the State of Michigan. Having this land taken into trust is one of the required steps that a Native American tribe must take in order to open a casino pursuant to the federal Indian Gaming Regulatory Act.

The District Court initially granted an injunction in favor of the State that prevented the Tribe from moving forward with plans for a Lansing-based casino. The Sixth Circuit, however, subsequently overturned this injunction but issued a stay on the proceedings until the State had a chance to apply for certiorari with the Supreme Court. The Supreme Court did not grant certiorari in the case, dismissing the request on June 5, 2014 per request of the parties to the suit due to the Supreme Court's recent precedent in *Michigan v. Bay Mills Indian Community* which affected the claims of the current lawsuit.

According to the December 3 Order, the State has until February 2, 2015 to file an amended complaint in the lawsuit and the Tribe and its governmental officials will have 45 days from filing of the complaint to file its response or to move to dismiss the case. Each party will also be afforded opportunities to respond to the complaint and the subsequent responses.

## **OJIBWA CASINO RELOCATION VOTED DOWN BY TRIBE**

On Saturday, December 13, 2014, the Keewenaw Bay Indian Community tribal members voted not to pursue efforts to buy the Baraga Lakeside Inn in order to relocate the Ojibwa Casino. The plan included two voter referendums, one to purchase the Baraga Lakeside Inn and one to spend an additional \$31 million to construct the new casino.

Currently, only the Ojibwa Casino operates in Baraga. According to KBIC Treasurer Eddy Edwards, “Tribal leaders have largely been in agreement for several years that a new casino is needed...” The lakeside proposal was approved in August of this year, but the plan fell through once the property went into foreclosure. Former Tribal President Fred Dakota claims that the Lakeside proposal was “too expensive for the amount of business they expected it to generate.”

## **UPDATE—COUNTY SUPPORTS LAC VIEUX OFF-RESERVATION CASINO**

On Wednesday, December 10, 2014, the Gogebic County Board of Commissioners approved a letter of support, 5-1, for the proposed Indianhead Mountain casino project. The Lac Vieux Desert Band of Lake Superior Chippewa Indians (“Lac Vieux”) and Indianhead Mountain are in preliminary talks regarding a \$20-30 million off-reservation casino that would include a 150-room hotel and convention center.

The development drew great public support during

a local forum in October. Next steps include completing a feasibility study regarding the size and scope of the project and beginning the land-in-trust process with the federal government.

The Lac Vieux Tribe currently operates the Desert Resort Casino in Watersmeet, MI, located approximately 50 miles from the proposed site. The casino features 25,000 square foot gaming space with over 600 slot machines and 16 table games. In addition to gaming, the resort offers a convention center, a 132-room hotel and three restaurants.

## **NEW YORK STATE AWARDS FIRST CASINO LICENSES**

On Wednesday, December 17, 2014, the New York State Gaming Facility Location Board awarded the state’s first commercial casino licenses. The three licenses issued were awarded out of sixteen applicants across three regional zones.

The commercial casino licenses are the first awarded in the State of New York after voters authorized a constitutional amendment to allow casino gaming in the state in November 2013. New York, in July of 2013, had enacted the Upstate NY Gaming and Economic Development Act (“Act”) contingent upon the November 2013 referendum. The Act allows for up to two destination casino resort licenses in each of three regions across the upstate areas of New York: the Capital, Catskills/Hudson Valley, and Eastern Southern Teir. Further, the Act states that there cannot be any downstate casinos for at least seven years after the award of the upstate licenses. Wagering tax revenue from the new facilities has been allocated to the host communities, surrounding counties, and statewide education and property tax relief efforts.

The newly authorized casinos will join the state’s existing nine racinos and five tribal gaming facilities. The three approved projects include:

**Montreign Resort Casino (Empire Resorts, Inc) – Catskills/Hudson Valley**

**Region (Town of Thompson):** The development will include the Montreign Resort Casino, hotel and entertainment complex, an indoor waterpark lodge, Entertainment Village, and redesigned Monster Golf Course. It is a part of the existing Adelaar development in the area, which is designed as a year-round destination resort area. The casino will feature an 80,000 sq. ft. gaming floor, 61 table games, and 2,150 slot machines. In addition, several non-gaming amenities, restaurants, and entertainment venues will be located within the casino and across the Entertainment Village.

**Rivers Casino and Resort at Mohawk Harbor (Capital Region Gaming, LLC/Rush Street Gaming, LLC/The Galesi Group) – Capital Region (City of Schenectady):** The development will include a waterfront location that is currently part of a redevelopment initiative lead by co-developer The Galesi Group. The casino will feature a 50,000 sq. ft. gaming floor with 66 table games and 1,150 slot machines. The development will also include fine and casual dining options, public green spaces, and an outdoor arena.

**Lago Resort and Casino (Wilmorite, Inc.) – Eastern Southern Teir (Town of Tyre):** The development will include a casino resort and 208-room hotel and proposes numerous partnerships with local tourism businesses. The casino will feature 85 table games and 2,000 slot machines. The development has strong minority hiring/contracting, local work force development, and local partnership aspects.

Both the Montreign Resort Casino and Rivers Casino and Resort projects have stated that they expect to be ready to open within 24 months of the date of licensure, with Lago Resort stating that it can open as early as 18 months from this date.

## AGA ANNOUNCES NEW POLICY RESOURCE

On Wednesday, December 17, 2014, the American Gaming Association (“AGA”) announced the release of its new “By the Book” online database, which seeks to allow stakeholders, policymakers, regulators and gaming journalists to easily compare commercial gaming regulations for each state.

“Commercial gaming operators and manufacturers face a complex regulatory environment unlike any other industry,” said Geoff Freeman, AGA president and chief executive officer. “The AGA is paving the way for forward-thinking policy that encourages innovation through our ‘Get to Know Gaming’ campaign, and this interactive database allows for easy navigation and comparisons of the nuanced and varied laws and regulations governing commercial gaming.”

The release of the new online resource is in connection with the AGA’s continuing “Get to Know Gaming” campaign. It is accessible through an interactive map on its website [www.GamingBytheBook.org](http://www.GamingBytheBook.org), and aggregates and explains the regulatory and statutory requirements for the gaming industry into five key areas: regulatory oversight; licensing; taxation; responsible gaming; and integrity.

“From a regulator’s perspective, this is a valuable tool that, for the first time, compiles key information in one place from a trusted source,” said Mark Lipparelli, gaming consultant and former Nevada Gaming Control Board Chairman. “This will help regulators across the country do their jobs more effectively and efficiently.”