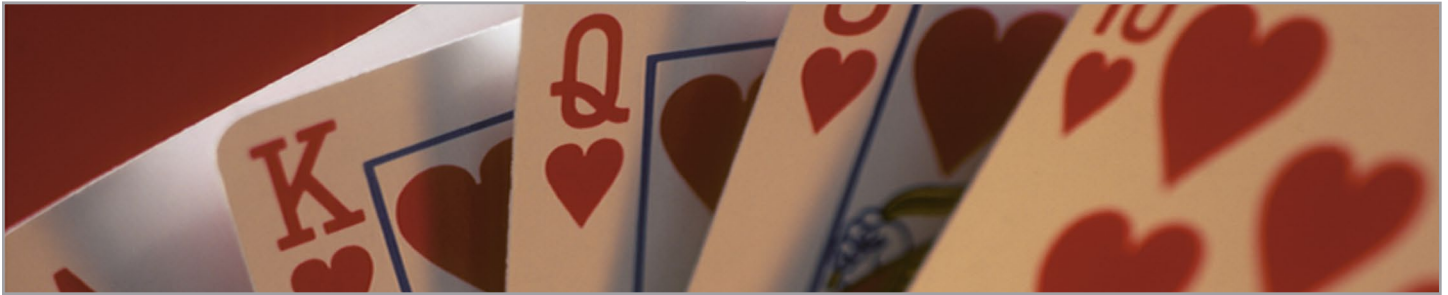


GAMING LEGAL NEWS



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GAMING LEGAL NEWS EDITORIAL BOARD

Robert W. Stocker II, Gaming Law
517.487.4715 • rstocker@dickinsonwright.com

Dennis J. Whittlesey, Gaming Law/Indian Law
202.659.6928 • dwhittlesey@dickinsonwright.com

Michael D. Lipton, Q.C., Gaming Law
416.866.2929 • mdliptonqc@dickinsonwright.com

Peter H. Ellsworth, Gaming Law/Indian Law
517.487.4710 • pellsworth@dickinsonwright.com

Peter J. Kulick, Gaming Law/Taxation
517.487.4729 • pkulick@dickinsonwright.com

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DICKINSON WRIGHT GAMING ATTORNEYS INTERVIEWED IN LEXISNEXIS PODCAST

Dickinson Wright gaming attorneys Bob Stocker and Peter Kulick were featured guests on a recent LexisNexis Bankruptcy Law Community podcast. Stocker and Kulick were invited to discuss recent developments and intricacies of United States bankruptcy proceedings that involve casinos. Stocker and Kulick are recognized nationally for their work with casino bankruptcies and are the authors of Chapter 25, *Chapter 11 Cases Involving Gambling Casinos*, which appears in the leading national bankruptcy practice guide, *Collier Guide to Chapter 11: Key Topics and Selected Industries*.

The podcast can be listened to online at the LexisNexis Bankruptcy Law Community homepage at:

http://www.lexisnexis.com/community/bankruptcy-law/blogs/podcasts/archive/2011/10/05/lexisnexis_ae00_-bankruptcy-law-community-podcast_3a00_-robert-stocker-and-peter-kulick-on-gambling-casino-chapter-11-bankruptcy-cases.aspx

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ANOTHER TRIBAL CASINO FACING FINANCIAL DISTRESS – THIS ONE MAY HAVE BEEN ITS OWN WORST ENEMY by Dennis J. Whittlesey

The Santa Rosa (CA) *Press Democrat* published a story last week about the casino located in Sonoma County's Alexander Valley that was startling to most readers: the Dry Creek Pomo Tribe's River Rock Casino has to raise \$205 million by November 1 to avoid default on \$200 million in debt. The magnitude of this problem was underscored by the newspaper's report that the debt already is considered risky

by Moody's Investors, which downgraded the casino's senior notes in August, with a concurrent public announcement that the downgrade was the product of delays in refinancing the debt issue.

Now, the tribe is down to only a few days before the November 1 deadline. Both Moody's and Standard & Poor's have issued warnings that the tribal debt almost certainly will again be downgraded if the refinancing is not concluded. The existing debt was issued in 2003 and pays 9.75 percent interest. The refinancing proposes a bond sale of notes that would mature in 2018, according to the *Press Democrat*, although there has been no public disclosure of terms, including interest rate.

The casino site is located on the Dry Creek Rancheria, a small federal fee tract of land located some seven miles east of U.S. Highway 101 at Geyserville. Visitors must drive a two-lane country road to reach the site, and then navigate a narrow, winding country road (now paved) up a steep hillside to the casino itself. Water supply and waste disposal have been problems in the past, although one of the project's worst problems was that the hill was unstable and a major "hillside stabilization project" had to be completed before major construction could be commenced. That project reportedly cost some \$15 million at the time.

Because of the narrow roads serving the casino site from U.S. 101, access always has been a concern. Indeed, a major component of the refinancing would provide funding to construct an emergency access road.

Prior to the casino's construction, the Alexander Valley Association (an organization consisting of the landowners within the valley) even brokered agreements with local and federal officials and politicians that would have facilitated a rare off-reservation casino development. Proposed sites for the casino were located adjacent to U.S. 101 and featured easy access to the site. Comprehensive utility services were in place for each of the prospective sites, not the least of which were those for water and sewer. For reasons never made clear, the tribe and its developers rejected all of these alternative locations in favor of using Rancheria land.

The tried and true axiom for any real estate acquisition is "location, location, location." A prime consideration for many casino developments has been the ability to "capture" highway traffic to augment the local population clientele. While there are no known publicly released studies identifying the capture rate for River Rock, geographical location may raise some concerns.

The casino is constructed, so relocating to improve the capture rate may not be a viable option. With the challenges in today's finance markets, the consequences of past decisions can be, and often are, amplified. The confluence of today's "new [ab]normal" finance markets and past decisions may well spin the tale of River Rock when its story is finally written.