

GAMING LEGAL NEWS



December 8, 2011 • Volume 4, Number 36
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

GAMING WEB SITES OF INTEREST

www.indianz.com
www.pechanga.net
www.indiangaming.org
www.nigc.gov
www.michigan.gov/mgcb
www.gaminglawmasters.com
www.casinoenterprisemanagement.com

Disclaimer: Gaming Legal News is published by Dickinson Wright PLLC to inform our clients and friends of important developments in the fields of gaming law and federal Indian law. The content is informational only and does not constitute legal or professional advice. We encourage you to consult a Dickinson Wright attorney if you have specific questions or concerns relating to any of the topics covered in Gaming Legal News.

NORTHWEST GAMING LAW SUMMIT FOCUSES ON INDIAN COUNTRY

by Robert W. Stocker II

The 9th Annual Northwest Gaming Law Summit held in Seattle last Thursday and Friday was well attended by representatives of Indian Country notwithstanding President Obama's last minute high level meeting with tribal leaders in Washington during the same time frame.

There was extensive discussion of *Rincon Band of Luiseno Mission Indians of Rincon Reservation v. Schwarzenegger*, in which the Ninth Circuit Federal Court of Appeals declared that California's demand for 15% of gross gaming revenues constitutes (1) an illegal tax on tribal gaming revenues and (2) a failure to negotiate in good faith. The focus was on what impact this decision will have on upcoming tribal/state compact negotiations throughout the country.

Several speakers also discussed the ongoing failure of Congress to implement a fix to the *Carcieri* decision, which has been the subject matter of several articles by Dennis Whittlesey in prior editions of this newsletter. What was clear from the conference speakers is that fee-to-trust issues continue to be a very hot topic in Indian Country.

However, by far the most interesting discussions surrounded the restrictions on the authority of the National Indian Gaming Commission over tribal gaming operations and the attempts of the Commission to implement Class III minimum control standards in the face of the U.S. Court of Appeals for the District of Columbia decision in *Colorado River Indian Tribes v. National Indian Gaming Commission*. Steffani A. Cochran, Vice Chairman of the NIGC, addressed this issue in general terms, but focused primarily upon the efforts of the NIGC staff to work on building better working relationships between the NIGC and the tribes. What was very clear from the tribal speakers was a strong desire to continue to limit the authority of the NIGC over tribal operations.

There was a great deal of substantive discussion regarding internet gaming and its potential impact upon Indian Country gaming. What became clear in the discussions is that with the exception of the alliance created between a significant number of California tribal casinos and California card clubs (the California Online Poker Association, referred

to as COPA, which is aggressively advancing intrastate internet poker legislation in the California legislature) and limited amounts of testimony before Congressional committees considering internet gaming issues, neither Indian Country nor the NIGC have yet agreed upon and developed a comprehensive, coherent position on internet gaming in Indian Country for inclusion in federal legislative efforts. Several speakers focused on the importance of Indian Country getting to the negotiation table at the federal level if Indian Country wants to have a meaningful say in the drafting of federal internet legislation. By way of example, there is no consensus on how and by whom tribal internet gaming would be licensed and regulated.

The conference also confirmed that Indian Country gaming is facing the same economic challenges that the commercial gaming industry is facing. This has resulted in reductions in gross revenue, reductions in staffing, and reductions in funding of tribal projects. As a result, the *Rincon* decision will probably play a particularly significant role in upcoming tribal/state negotiations.

NCLGS CONFERENCE SET FOR JANUARY 6-8 IN LAS VEGAS

The National Council of Legislators from Gaming States is conducting its winter meeting on January 6-8 at the Rio All-Suite Hotel & Casino in Las Vegas. The NCLGS is the only organization of state lawmakers that meets on a regular basis to discuss gaming issues. The upcoming conference will conduct sessions on a wide variety of gaming issues facing state legislatures. High on the list of discussion topics will be the expansion of gaming within the United States, gaming in Indian Country, and internet gaming. Details regarding the conference are available on the NCLGS website.