

Osage chief insists county never lost its status



LAND CLAIM

**John D. Red Eagle:** The Osage Nation principal chief says all of Osage County should be considered Indian Country.

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## **PAWHUSKA - Osage Nation tribal officials are still insistent that all of Osage County is a reservation, despite the Supreme Court's deciding the matter to the contrary Monday.**

Tribal leaders in press releases and in direct talks continue to maintain that the county never lost its reservation status.

Osage Nation Principal Chief John D. Red Eagle said he is "disappointed with the Supreme Court's decision to allow a clearly wrong decision to stand, but this does not end the Osage Nation's efforts to protect our homelands."

Chris White, the tribe's executive director of legislative affairs, echoed that theme following the court decision, noting that federal officials who advised the court on the case never claimed that the reservation had been dissolved.

State officials maintain that the reservation lost its legal status when it was incorporated into the state when Oklahoma became a state in 1907.

But despite Monday's ruling, White said Red Eagle is moving forward and hopes to patch up any ill will that may have developed among the tribe and state and local governments and nontribal

civilians.

"I reaffirm my pledge for reconciliation and unity for the benefit of all our tribal citizens, as well as our neighbors," Red Eagle said in a media release. "The Osage Nation's relationships with federal, state and local governments will continue and will become even stronger."

White said Red Eagle favored pursuing the appeal.

"At the point that he inherited this, there was basically no turning back," White said. "They had to pursue it. This administration is not going to discuss the moot point of whether or not former Osage tribal leaders were correct to initiate this litigation."

Red Eagle said the court decision has no impact on any tribal operations, including its three casinos.

The tribe's Million Dollar Elm casinos have been in legal limbo since a May 2010 10th U.S. Circuit Court of Appeals ruling on the matter.

The casinos, including the tribe's largest one in Tulsa, were established on land that is not held in trust by the federal government, which is a requirement in states where gambling is illegal.

The tribe has since submitted an application to the Department of Interior to place the casinos' land in trust, but a decision has not yet been made.

The casinos had been operating under an opinion by National Indian Gaming Commission attorneys, who cited U.S. Department of Interior documents classifying Osage County as Indian land, White said.

"We still need to have this land put in trust for the three casinos," White said. "Those applications are moving forward as expected. We think if it's not this week, it will be next week."

White said Red Eagle and his staff have maintained constant communication with Gov. Mary Fallin's office regarding the effort to place the casino land in trust.

Tribal gaming compacts are established with the Governor's Office.

"They have stated to us as long as we are making an honest attempt to get these lands into trust, they at least have informed us that they choose not to take any action against our casino operations, and we take them for their word," White said.

The Supreme Court's rejection of the tribe's appeal of a lower court ruling ends a case that was filed a decade ago.

The tribe, while under former Principal Chief Charles O. Tillman's administration, filed the case in 2001 in Tulsa federal court against the Oklahoma Tax Commission.

The Pawhuska-based tribe argued in its lawsuit that the Osage Reservation was never formally disestablished by Congress and that all of Osage County should be considered Indian Country.

Had the tribe prevailed, tribal members who live and work in Osage County would have been exempt from state income taxes.

A state Tax Commission spokeswoman said the agency was pleased with the ruling.

"We feel like for us it effectively ends the case," Oklahoma Tax Commission spokeswoman Paula Ross said. "We will review it and see if there's any impact, but I think it's minimal since the case went this way."

The Tax Commission has no authority or jurisdiction over tribal gaming revenues or related tax collections, Ross noted.

Osage Nation officials, in response to a Tulsa World request, said the lawsuit has cost the tribe \$955,888 in attorney fees and other court costs.

Ross said the Oklahoma Tax Commission spent about \$800,000 on outside legal counsel to defend the state's interests in the case, in addition to an unspecified amount in staff attorney time.