

Osage chief unfazed over trust land ruling

The tribe is asking a U.S. appeals court to rehear the case, which involves casino sites.

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Osage Nation Principal Chief Jim Gray expressed confidence that a federal appeals court would rehear a case that may have implications for three of the tribe's casinos that are not on trust land, and he said those casino jobs are safe.

"First and foremost, I would like to assure Osage Nation employees and casino employees that their jobs are in no way, shape or form in jeopardy," he said. "We are extremely confident in our petition for rehearing of the U.S. 10th Circuit Court of Appeals' decision last month.

"As a precautionary measure, we have begun the process of putting our land into trust to ensure the security of our employees regardless of the outcome of our legal battle. This process takes time, but we are on it."

Three of the tribe's Million Dollar Elm casinos — in Tulsa at 951 W. 36th St. North, in Skiatook and in Ponca City — sit on land that is not in trust with the U.S. government or under federal restricted status. That means the casinos could fall under the jurisdiction of state law, which prohibits casino gambling.

To complicate issues for the tribe, the Osage Nation Congress failed last week to confirm the tribe's three-member Gaming Enterprise Board, which oversees several functions of the tribe's gambling operations, Gray said.

The lack of a gaming enterprise board has a litany of possible ramifications, among them the suspension of gambling revenues from the casino to the tribe, suspension of gambling compact payments to the state and Oklahoma Horse Racing Commission, suspension of payments of more than \$50,000 owed to vendors and a halt to the sending of paychecks to casino employees.

Gray formally submitted a request Monday for the tribal congress to reconsider the confirmation votes, the initial round of which was taken by secret ballot, he said.

The chief is seeking ways to make sure casino employees are paid despite the

absence of the board, he said.

"We're trying to find a way to make it possible," he said. "It's created a firestorm of controversy over this decision."

The tribe employs 1,700 people, including 1,200 in casinos.

Meanwhile, Gray said, the rules for putting land into trust have been rewritten, and the tribe has yet to submit an application under the new rules for the land on which the three casinos sit to be put in trust.

The tribe operates seven casinos in Osage County, the largest of which is the Tulsa casino. Osage casinos in Sand Springs, Hominy and Pawhuska all sit on land that is owned by the tribe and in trust status, data from county assessors show.

The three casinos that are not on land held in trust have been operating under a 2005 determination by the National Indian Gaming Commission that the Osage Nation reservation still existed, which meant the tribe could run casinos within the boundaries of the reservation.

However, a federal judge in Tulsa ruled in January 2009 that the Osage reservation was "disestablished by Congress" under the 1906 Osage Allotment Act.

The 10th U.S. Circuit Court of Appeals in Denver upheld the ruling, which Gray called "reckless."

The case stems from a lawsuit that the Osage Nation filed in 2001 against the Oklahoma Tax Commission in an effort to keep the tax agency from levying state income taxes on members of the tribe who live within Osage County.

Gaming Commission officials said they would continue to regulate the three casinos until the tribe runs out of legal options, at which point it would assess the situation.

State officials said they would wait on the Gaming Commission's determination.

Gray said Monday that fears expressed by some tribal leaders that the case would not be reheard amounted to "political grandstanding" tied to tribal elections, which are about 60 days away.

The tribe has filed a petition for the appeals court to rehear the case, and several groups and other tribes filed legal briefs Friday in support of the Osage Nation. They include the Muscogee (Creek) Nation of Oklahoma, the National Congress of American Indians, and the Council of Energy Resource Tribes, whose members consist of 54 tribes recognized in the U.S. and four tribes in Canada.

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