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From: shawn.pensoneau@bia.gov
Sent: 2017-06-19T16:19:35-04:00
Importance: Normal
Subject: OPA-IA Daily News Clips June 19, 2017
Received: 2017-06-19T16:21:48-04:00
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9th Circ. Finds It Can't Hear Casino Opponents' Appeal

 By **Christine Powell**

Law360, New York (June 16, 2017, 5:41 PM EDT) -- The Ninth Circuit on Thursday tossed an appeal with which opponents of a tribe's San Diego-area casino had hoped to revive their efforts to block the project, agreeing with the federal government that the court could not hear the dispute.

In a brief order, a three-judge panel granted the federal government's **motion to dismiss** an appeal by the Jamul Action Committee, Jamul Community Church and several individuals that have challenged the Hollywood Casino Jamul-San Diego on the grounds that the land the project sits upon is not eligible for gambling under the Indian Gaming Regulatory Act.

Though the panel did not elaborate, it did point to a 1981 ruling by the Ninth Circuit in a case called Chacon v. Babcock, which the federal government had cited in the underlying motion.

In that 1981 ruling, the Ninth Circuit held that a district court order is not appealable unless it disposes of all claims as to all parties in a case.

As such, in its motion to dismiss the casino opponents' appeal on jurisdictional grounds, the federal government had pointed out that the district court's underlying August 2016 order dismissed only five of their six claims.

The casino opponents first filed suit in September 2013 against the National Indian Gaming Commission and the U.S. Department of the Interior, a handful of federal officials, several members of the Jamul Indian Village and the tribe's development partners on the casino project: Penn National Gaming, San Diego Gaming Ventures and C.W. Driver.

The dispute is part of a long-simmering battle over the casino, which has faced opposition from residents of the region but finally opened its doors in October.

In an **August decision**, U.S. District Judge Kimberly J. Mueller tossed all of the casino

opponents' claims against the tribe members and the companies, ruling that the federally recognized Jamul Indian Village would have to be joined to the suit but could not be due to its sovereign immunity.

However, she kept one of the casino opponents' claims against the federal government alive, which alleged that the government had failed to prepare an environmental impact statement, as required by the National Environmental Policy Act, when approving the tribe's gaming management contract.

Ultimately, the judge granted the federal government summary judgment **on that claim** in December, finding that the casino opponents could not demonstrate the federal government had issued a final approval of the gaming management contract before they filed their operative second amended complaint in August 2014.

NEPA claims require proof of a final agency action, and a district court's subject matter jurisdiction over such claims depends on plaintiffs showing that there was a final agency action, the judge said.

In their **March opening brief** at the Ninth Circuit, the casino opponents had argued that the tribe is not a required party to its claims under the Administrative Procedure Act challenging whether the government had complied with federal law and regulations in approving the project.

And even if the tribe needed to be brought into the suit as a defendant, "it does not have pre-existing, inherent sovereignty or sovereign immunity that would preclude its joinder in this case," and would have waived any immunity it sought to claim by participating as an amicus in the case, the casino opponents had said.

After the federal government had filed its motion to dismiss the appeal for lack of jurisdiction, a motion that other defendants later joined in on, the casino opponents blasted the contention that the district court's dismissal of their suit was not appealable.

The district court's order, "coupled with other interim orders, resolved all the remaining issues as to all the remaining parties in this case," the casino opponents had said." There is nothing left for the district court to decide. This appeal should proceed."

Representatives for the parties did not respond immediately to requests for comment Friday.

The casino opponents are represented by Kenneth R. Williams.

The federal government is represented by Elizabeth Ann Peterson, Attorney, Department of Justice, Environment and Natural Resources Division.

Penn National, San Diego Gaming, C.W. and the individual defendants are represented by Frank Lawrence of the Law Office of Frank Lawrence.

The case is Jamul Action Committee et al. v. Jonodev Chaudhuri et al., case number 16-16442, in the Ninth Circuit Court of Appeals.

--Additional Reporting by Andrew Westney, Emma Cueto, Adam Lidgett and Shayna Posses. Editing by Jack Karp.

Calif. County Tax On Leased Tribal Lands Gets Judge's OK

Share us on: By **Michael Macagnone**

Law360, Washington (June 16, 2017, 6:22 PM EDT) -- The Agua Caliente Band of Cahuilla Indians lost its suit accusing a California county of collecting unlawful taxes on leased tribal trust lands on Thursday, when a California federal judge ruled the taxes did not overly interfere with the tribe's self-governance.

The decision sides with Riverside County over a possessory interest tax charged to non-Indian lessees on the tribe's reservation. U.S. District Judge Dolly Gee said the tax, assessed on leaseholders for using property owned by a governmental entity like the tribe, was not preempted by federal law, adding that "the tax is intimately connected with services provided to those who pay it — non-Indian lessees — and there is no evidence that it actually impairs Agua Caliente's ability to self-govern."

"While it may minimally affect the tribe's revenue generation, it does not affect the tribe's ability to self-govern," the judge said in the decision. "Nor does it appear to interfere at all with the tribe's leasing process."

Since filing the suit in 2014, the tribe claimed that the county's possessory interest tax is not directly tied to any services that the county provides to Native American landowners or their lessees. The tribe and other parties filed summary judgment motions in November, seeking to conclude the suit.

The tribe argued that in determining preemption through a balancing test, its interests — including an estimated loss to the tribe of $20 million per year because it can't currently assess its own tax on lessees — and the federal government's interest in regulating leasing on Indian lands outweigh the county's interests.

A month after the suit was filed, the Desert Water Agency — which receives part of the county's tax — moved to intervene as a defendant in the case, which the court permitted to allow the utility to protect its interests. The tribe then asserted claims against the DWA related to its ad valorem tax, groundwater replenishment fee and water service charge, but dropped them after discovery.

Thursday’s decision detailed a series of major public services provided to the lessees of the land, such as fire and police protection, that are financed by the collection of the tax. Further, the tribe is not blocked from collecting its own taxes to render its own services, the judge said.

“Significantly, the governmental services that the PIT helps fund promote the very activity being taxed — the enjoyment and use of trust land by non-Indian lessees and tribe members alike,” the decision said.

Although the web of federal law and regulation surrounding the interaction of the government and tribes leans against state and local taxation, Judge Gee wrote, the narrow avenue of taxation in the instant case sufficiently meets the state’s needs.

“The state interests are sufficiently tailored to the tax imposed because, as explained, California’s design of [such taxes] and revenue allocation formulas results in lessees paying their fair share of state-provided services,” the decision said.

Counsel for the Desert Water Agency, Roderick E. Walston of Best Best & Krieger LLP, told Law360 on Friday that they were pleased with the decision and believed the judge "reached the right result based on the law that applies.”

“The interest in the state and the county in imposing the tax outweighed the tribe’s interest,” Walston said. “It would be very difficult for the tribe to obtain a reversal in the Ninth Circuit.”

Counsel for the other parties could not immediately be reached for comment Friday.

The federal government is represented by Peter McVeigh of the U.S. Department of Justice's Environment and Natural Resources Division.

The Agua Caliente Band is represented by Rob Roy Smith, Catherine Munson and Mark H. Reeves of Kilpatrick Townsend & Stockton LLP, and David J. Masutani of AlvaradoSmith PC.

Riverside County is represented by Jena A. MacLean and Benjamin S. Sharp of Perkins Coie LLP and in-house by Ronak N. Patel and Gregory P. Priamos.

Desert Water Agency is represented by Roderick E. Walston, Piero C. Dallarda, Gene Tanaka and Sarah C. Foley of Best Best & Krieger LLP.

The case is Agua Caliente Band of Cahuilla Indians v. Riverside County et al., case number 5:14-cv-00007, in the U.S. District Court for the Central District of California.

--Additional reporting by Andrew Westney. Editing by Aaron Pelc.

Cherokee Defend Trust Management Suit Against Fed. Govt.

Share us on: By **Christine Powell**

Law360, New York (June 16, 2017, 7:06 PM EDT) -- The Cherokee Nation on Thursday pressed an Oklahoma federal court to reject the federal government's attempt to duck a lawsuit claiming it has failed to properly manage the tribe's trust assets, saying that its dismissal arguments have already been deemed ineffective.

The tribe responded to **a motion to dismiss** filed in April by the U.S. Department of the Interior, the U.S. Department of the Treasury and several other agencies and officials in an effort to escape the lawsuit, with which the tribe seeks to force the federal government to provide a full historical accounting of its trust funds and natural resources and to restore any funds that cannot be accounted for.

As it "has unsuccessfully done in numerous other Indian trust cases — even before this court — the United States" argues that the court lacks jurisdiction, that the tribe has failed to state a claim upon which relief can be granted and "even goes so far as to assert" that the case is meritless, according to the tribe.

But "the United States' litigation position is not only at odds with the law, it is also directly at odds with its official position," the tribe said, pointing out that the DOI had commissioned an expert panel to take a look at the federal government's failure to carry out its trust duties, including its tribal trust accounting duty.

The experts' 2013 final report concluded, among other things, that the positions taken by the federal government in a prior trust case were "a prime example of how the executive branch, acting through the Justice Department and presumably with the Interior Department's approval, has taken what can only be characterized as a legal position completely at odds with its fiduciary obligations to individual Indians and tribes," the tribe said.

Additionally, the Cherokee Nation said that more than 100 other tribes have sued the federal government for an accounting and that many of those cases are still pending. "Unsurprisingly," the federal government's defensive arguments in the cases have been

“remarkably similar” across the board, yet in the instant case it has failed to “cite even one” dispute in which it won on any of those arguments, according to the tribe.

“This is not a case where the nation’s claims have no merit,” the tribe said. “Rather, this is a matter of the United States unnecessarily relitigating defenses that it previously litigated and lost multiple times over.”

The tribe went on to dispute the federal government’s contention that it has not waived its sovereign immunity to the case and that the statute of limitations bars the tribe’s accounting claims, among other things.

In its November complaint, the Cherokee Nation claimed that the federal government has not kept an adequate record of all financial transactions involving funds it holds in trust for the tribe and asked for “as full and complete accounting as possible of the nation’s funds, assets and natural resources” and restoration of any of the tribe’s trust funds that aren't identified in the accounting.

The tribe also asked the court to require the federal government to establish systems to account for the tribe’s trust funds, to provide reports on the performance of the tribe’s accounts and to maintain sufficient staffing to manage and account for the trust funds, according to the complaint.

In seeking dismissal of the suit in April, the federal government said that the tribe’s claims are “legally baseless,” as the U.S. “has not expressly or unequivocally waived its sovereign immunity to Cherokee’s claims asserted in this case,” and that the tribe hasn’t met the requirements to establish the court’s jurisdiction under the Administrative Procedure Act.

Further, the court has no jurisdiction over the claims seeking restoration of trust funds or administrative changes by federal agencies in handling the tribe’s trust assets, according to the federal government’s motion.

The tribe’s trust accounting claims for the period preceding Nov. 28, 2010, are barred by a six-year statute of limitations for suits against the government, and those dealing with the period before Aug. 13, 1946, have also been extinguished through the Indian Claims Commission Act, the federal government said.

Representatives for the tribe were not immediately available to comment on Friday. The federal government does not comment on pending litigation.

The Cherokee Nation is represented by its Attorney General Todd Hembree, Sara Elizabeth Hill of the Cherokee Nation Office of the Environment and Natural Resources, David F. Askman and Michael M. Frandina of Askman Law Firm LLC, Anne Lynch and Michael Goodstein of Hunsucker Goodstein PC, and Jason B. Aamodt, Deanna Hartley, Krystina E. Phillips and Dallas L.D. Strimple of Indian and Environmental Law Group PLLC.

The federal government is represented by Jeffrey H. Wood, Dedra S. Curteman, Stephen Finn and Anthony P. Hoang of the U.S. Department of Justice, Kenneth Dalton, Dondrae Maiden, Shani Walker and Josh Edelstein of the U.S. Department of the Interior, and Thomas Kearns of the U.S. Department of the Treasury.

The case is Cherokee Nation v. U.S. Department of the Interior et al., case number 5:16-cv-01354, in the U.S. District Court for the Western District of Oklahoma.

--Editing by Stephen Berg.

Mich. Tribe Says Rival Shouldn't Intervene In Casino Suit

Share us on: By **Adam Lidgett**

Law360, New York (June 16, 2017, 6:43 PM EDT) -- The Bay Mills Indian Community of Michigan pressed the Sixth Circuit on Friday not to give another tribe looking to protect its gambling revenue permission to intervene in Bay Mills' suit seeking the right to operate an off-reservation casino.

Bay Mills asked the court not to reverse a ruling by U.S. District Judge Paul L. Maloney denying a request to intervene from the Saginaw Chippewa Indian Tribe of Michigan in a suit against state Gov. Rick Snyder.

Bay Mills said that the district court's conclusion that the Saginaw Tribe — which Bay Mills said had no legal interest in the suit and failed to meet a prerequisite requirement of sharing a common question of law or fact with the main action — is consistent with past decisions of the appellate court.

"The Saginaw Tribe's sole basis for intervening was its concern the state would no longer vigorously defend this action," Bay Mills said. "But that concern is now effectively moot, and the motion premature at best, based upon the summary judgment motion the governor filed the day after the Saginaw Tribe's intervention motion."

The Saginaw Tribe has said Snyder is no longer adequately protecting its interests as he is apparently seeking to settle with Bay Mills. In a May brief, the Saginaw Tribe said it meets the standard for "permissive intervention" under Rule 24(b) of the Federal Rules of Civil Procedure because its defenses share common questions of law and fact with the governor's defenses, and that Judge Maloney made a few key errors in finding otherwise.

Snyder has also opposed the intervention, telling the appeals court on Thursday that the Saginaw Tribe's motion to intervene was untimely and that allowing it to intervene now would delay the underlying case and prejudice the parties.

The underlying dispute is related to the casino the Bay Mills tribe opened in Vanderbilt — about 100 miles from its reservation — in 2010. The tribe bought the land for the project

using earnings from the Bay Mills Land Trust, which was established by the Michigan Indian Land Claims Settlement Act. The tribe shut the casino down the next year, but said that it planned to eventually reopen the facility.

Bay Mills filed suit in 2011 seeking a declaration that a provision in MILCSA — that lands purchased with funds from the land trust “shall be held as Indian lands are held” — means that the Vanderbilt parcel was automatically placed in Indian Country and that the casino is therefore legal.

Additionally, Bay Mills has asked for a declaration that the Vanderbilt parcel is “Indian lands” as defined in the Indian Gaming Regulatory Act.

Meanwhile, Snyder has moved for summary judgment, arguing MILCSA does not automatically allow the tribe to conduct gambling on the property in Vanderbilt. Nothing in the plain language of MILCSA supports the tribe's position, nor does the law's legislative history, the governor said.

Snyder’s office declined to comment Friday.

Representatives of the Saginaw Tribe and the Bay Mills tribe did not immediately respond to requests for comment on Friday.

The Saginaw Tribe is represented at the Sixth Circuit by the tribe's own Sean Reed and by Jessica S. Intermill and William A. Szotkowski of Hogen Adams PLLC.

The Bay Mills Indian Community is represented by Vernle C. Durocher Jr., Timothy J. Droske and James K. Nichols of Dorsey & Whitney LLP and in-house by Chad P. DePetro and Kathryn L. Tierney.

Snyder is represented by Margaret Bettenhausen and Jaclyn Shoshana Levine of the Michigan Attorney General’s Office.

The case is Bay Mills Indian Community v. Rick Snyder, case number 17-1362, in the U.S. Court of Appeals for the Sixth Circuit.

--Editing by Jill Coffey.

High Court Says Offensive TM Ban Is Unconstitutional

Share us on: By **Bill Donahue**

Law360, New York (June 19, 2017, 10:25 AM EDT) -- The U.S. Supreme Court ruled Monday that the federal government's ban on offensive trademark registrations violates the First Amendment, handing the Washington Redskins a final victory in a decades-long battle over the team's name.

The U.S. Supreme Court unanimously agreed Monday that offensive trademarks cannot be banned under the First Amendment. (Law360)

The high court's decision, in which all eight participating justices agreed on the key finding, came in a separate case filed by a rock band called The Slants, which **challenged the constitutionality of the ban**after it was refused a trademark registration on its name on the grounds that it was "disparaging" to people of Asian descent.

But the biggest impact will be on the Redskins, which saw the registrations on their billion-dollar intellectual property **revoked in 2014** under the same rule. The ruling will end a two-decade effort by Native American activists to cancel the team's registrations as pressure to change the name.

In a 39-page opinion that came with several concurrences, Justice Samuel Alito wrote that the rule — the so-called disparagement clause of Lanham Act's Section 2a — amounted to discrimination based on unpopular speech.

"We now hold that this provision violates the Free Speech Clause of the First Amendment," Justice Alito wrote. "It offends a bedrock First Amendment principle: Speech may not be banned on the ground that it expresses ideas that offend."

The Redskins have their own separate case challenging the ban, but the team chose a more procedurally lengthy appellate route than the Slants, meaning the band's case reached the high court first. The Redskins case has been stayed pending the high court's ruling.

Following the ruling, the United States Patent and Trademark Office said it was reviewing the decision.

“As always, we will continue to follow the trademark laws in examining applications,” said office press secretary Paul Fucito. “We plan to issue further guidance following a careful review of the court’s decision.”

Attorneys for Simon Tam, the leader of the Slants and the named plaintiff in the case, hailed the ruling as a triumph for free speech.

“Today’s landmark decision is an overwhelming victory for Mr. Tam, the members of his band and the many advocates across the country who work so tirelessly to preserve our First Amendment rights,” John C. Connell of Archer & Greiner PC said.

The disparagement clause **has been on the books since 1946**, when the Lanham Act was enacted, but courts had long ruled that it didn’t violate the First Amendment because it doesn’t actually bar real-life use of the offending mark, nor does it prevent the owner from enforcing common law trademark rights.

But the Federal Circuit, **ruling on the Slants' case in December 2015**, overturned that precedent, declaring that the rule penalized unpopular speech by denying the substantial benefits of a trademark registration.

The USPTO appealed that ruling to the high court in April, and the justices granted certiorari in September.

At the high court, the USPTO argued, among other things, that the ban amounted to “government speech,” which the Supreme Court has ruled in the past isn’t subject to First Amendment scrutiny. The agency cited a recent ruling in which the high court allowed Texas to refuse to issue Confederate flag license plates.

On Monday, Justice Alito dismissed that argument as “far-fetched.”

“If the federal registration of a trademark makes the mark government speech, the federal government is babbling prodigiously and incoherently,” the justice wrote. “It is saying many unseemly things. It is expressing contradictory views. It is unashamedly endorsing a vast

array of commercial products and services. And it is providing Delphic advice to the consuming public."

Attorneys for the Redskins, who will likely immediately seek a formal victory in the team's separate case, said they were "thrilled" by a ruling that "vindicated" the team's similar arguments. Attorneys for the Native American activists that brought the case against the team said they were "disappointed," but pointed to court findings that the team's name was offensive.

"By striking down Section 2(a) of the Lanham Act, the Supreme Court has held that Congress cannot keep disparaging trademarks out of the federal registration program, but the court did nothing to cast doubt on the prior judicial findings that the Washington NFL team's name and trademarks disparage Native Americans," said Jesse A. Witten, a partner at Drinker Biddle & Reath LLP and lead counsel for the challengers.

The USPTO is represented by its own attorneys and attorneys from the U.S. Department of Justice.

The band is represented by John Connell, Ronald D. Coleman and Joel G. MacMull of Archer & Greiner PC; and by Stuart Banner and Eugene Volokh of the UCLA School of Law.

The case is Matal v. Tam, case number 15-1293, in the Supreme Court of the United States.

--Editing by Emily Kokoll.

Update: This story has been updated with comments from the USPTO and plaintiff's counsel and more information from the ruling.

Dakota Access Ruling Boosts Tribes Seeking Enviro Justice

Share us on: By **Andrew Westney**

Law360, New York (June 15, 2017, 10:31 PM EDT) -- A D.C. federal court decision forcing the government to re-examine its final approval of the Dakota Access pipeline granted in the first month of the Trump administration gives new legal ammunition to tribes who argue they must be treated fairly when agencies assess the environmental damage a project might cause, attorneys say.

U.S. District Judge James E. Boasberg ruled Wednesday that the U.S. Army Corps of Engineers in approving the pipeline had failed to fully weigh how a potential oil spill would impact the Standing Rock and Cheyenne River Sioux tribes, particularly with respect to environmental justice, which calls for a determination of whether a project will have a disproportionately negative impact on minority and low-income groups.

The decision marked a “big win” for the tribes by clarifying how agencies should incorporate environmental justice as well as tribal treaty rights to hunting and fishing into the National Environmental Policy Act review process, University of Colorado Law School professor Sarah Krakoff said.

However, that might not be enough to force Dakota Access to suspend operation of the pipeline while the review is conducted, especially since oil has already started flowing through it, she said, noting the tribes and the company will get to make their case on that point in further briefing.

Still, the judge’s call for further environmental justice review keeps alive the question of ensuring fundamental fairness to tribes in evaluating energy projects that attracted many to the Standing Rock cause, attorneys say.

“That’s at the heart of this, and I think that’s why you saw such broad and energetic and passionate support from all over Indian Country,” Holland & Knight LLP partner James T. Meggesto said.

The tribes had been deprived of good news in the case in recent months, as the Trump

administration called off a stringent environmental review proposed by the Corps under the Obama administration and issued a required easement for the pipeline to Dakota Access **in February**.

And Wednesday's ruling was in many ways "a ratification of the status quo," Greenberg Traurig LLP shareholder Troy A. Eid said, as the judge found that the Corps' NEPA review was largely adequate, including upholding the government's trust responsibility to the tribes and considering reasonable alternatives to the pipeline's route near the Standing Rock reservation.

"The overwhelming weight of this decision is that the statute was followed," Eid said.

But the judge also ruled there were "substantial exceptions" to the Corps' NEPA compliance, including failing to adequately consider the impacts of an oil spill on the Standing Rock tribe's hunting and fishing rights and on environmental justice, as well as the potential controversy over the impact of the project due to possible scientific flaws in the agency's analysis

With respect to environmental justice, the judge said the Corps "failed to take a hard look" at the environmental impact of the pipeline on the Standing Rock tribe, and that it "needed to offer more than a bare-bones conclusion that Standing Rock would not be disproportionately harmed by a spill."

The ruling calls into question whether the Corps cut corners in its review **under an executive order from President Donald Trump**, attorneys say.

"I think this is a pushback to the administration, saying, 'Wait, not so fast, to do the analysis under NEPA right, it sometimes does take time,'" Krakoff said.

Federal employees are in an unenviable position at the moment, as they deal with presidential pressure to move quickly on projects while federal courts are holding them to their statutory duties, according to Hogen Adams PLLC member Jessica Intermill.

"That's going to be a hard balance for those agencies to make, but in the end, it's the court's job to tell them to follow the law," she said. "If the administration has overstepped, then federal courts will tell them so."

Just how involved and lengthy the Corps' review on remand must be is up to the agency, but it doesn't necessarily have to include an environmental impact statement as proposed by the Corps under the Obama administration, attorneys say.

In the meantime, the judge will have to decide whether the Dakota Access pipeline must shut down while that review is being conducted. That may be a hard point for the tribes to win, since the pipeline is not only operational but will have more oil flowing through it before the end of the year, attorneys say.

If the Corps does find on remand that the Dakota Access pipeline has a negative impact on environmental justice, the judge will have to find a means to address that "more amorphous" problem, according to Eid.

"How do you fashion an environmental justice remedy? I don't have a clear answer for how that works," he said. "The tribes have taken a position that it's all or nothing, but I think it's very unlikely the court would go down a path like that."

In the end, other tribes may benefit from the environmental justice concerns raised by the Standing Rock case, as the court could look to create a prospective solution to put tribes in a better position to address environmental justice in future projects, he said.

--Editing by Philip Shea and Aaron Pelc.

NIGC Issues Violation Notice Against Nooksack Casino

Share us on: By **Adam Lidgett**

Law360, New York (June 16, 2017, 1:21 PM EDT) -- The National Indian Gaming Commissionon Thursday told the Nooksack tribe of Washington state to cease and desist from all gambling activity at its Northwood Casino, saying that an investigation has revealed various alleged violations of the Indian Gaming Regulatory Act.

NIGC Chairman Jonodev O. Chaudhuri issued a notice of violations and temporary closure order to the tribe on Thursday, saying it has violated not only the IGRA but NIGC regulations and the tribe's own gambling ordinance. The commission said, among other things, that the tribe hasn't maintained a sole proprietary interest and responsibility for gambling activity conduct, failed to conduct background investigations such as federal criminal history checks on primary management officials and allegedly failed to issue a license to all those officials as well.

"The respondent has further violated the IGRA and NIGC regulations by failing to submit attestation certifying that by issuing the facility license, the tribe has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety," the notice and temporary closure order read.

The notice said that the tribe has to hold a valid election and achieve a quorum of council members who can then exercise responsibility to maintain the tribe's sole proprietary interest and responsibility for gambling.

The tribe also must collect fingerprints of all primary management officials alleged to be unlicensed and forward them to the NIGC, complete background investigations to obtain FBIcriminal history checks and submit required notice of licensure, among other things.

The commission also said the tribe has to close gambling until it can operate the facility in a way that protects the public health and safety, which includes compliance with orders from the U.S. Environmental Protection Agency regarding alleged violations of the Safe Drinking

Water Act.

Chaudhuri said in a statement that the commission doesn't take the issuance of notices of violation and closure orders lightly against tribal gambling operations.

"We are taking this significant enforcement action only after a complete analysis of the unique circumstances involved, including a full review of the structure of the tribe's governing and business bodies," the statement said. "The violations set forth in the notice compromise the integrity of the Northwood Casino and the gaming industry as a whole, diminish the sole proprietary interests of the tribe, threaten the health and safety of the public and impede the tribe's ability to make necessary decisions to administer their operations."

A representative for the tribe was not immediately available to comment on Friday.

--Editing by Stephen Berg.