

GAMINGLEGALNEWS



May 24, 2012 • Volume 5, Number 13

GAMINGLEGALNEWS 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 • mdlipptonqc@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

Kevin J. Weber, Gaming Law
416.367.0899 • kweber@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
www.ggbmagazine.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.

GRATON'S NEVER-ENDING BATTLE TO DEVELOP GAMING

by Dennis J. Whittlesey

The Graton Rancheria was federally recognized as an Indian tribe on December 27, 2000, by an Act of Congress. The Tribe has been continuously pursuing development of a casino for the ensuing 11½ years, but casino opponents have opposed and attacked the project with the ferocity and tenacity of a dog with a bone. This opposition has culminated in new litigation challenging the State of California's ratification of a Class III Gaming Compact with Graton.

The tribal path has been littered with all sorts of problems, some of which may have been of its own making, but it appeared that the final obstacles had been overcome as of May 7, 2012, when the California state legislature ratified the Compact which was negotiated by Governor Jerry Brown. This ostensibly was the final step prior to commencement of casino construction since the proposed casino site was accepted into trust for the Tribe in October 2010.

Having sidestepped and beaten down the many avenues of attack on its project over the years – including having to abandon two previous sites before settling on the current location – the Graton Tribe had every reason to believe that its long fight was virtually over. Its 254-acre site adjacent to U.S. 101 at Rohnert Park, California, was in trust, its Gaming Compact was ratified and pending before the Secretary of the Interior for approval, and its business partner Station Casinos was firmly committed to completing the project and opening for gaming operations within a reasonable period of time.

However, the opponents have not gone away. Indeed, on May 21, they filed a lawsuit in Sonoma County Superior Court challenging the Compact's legality under state law and seeking to permanently enjoin the Governor and unnamed state officials from taking any actions implementing the Compact. The opponents are organized as "Stop the Casino 101 Coalition" and have been led since the association's founding in 2003 by Rohnert Park resident Pastor Chip Worthington. Worthington has proven to be tenacious in his opposition to any Graton casino and particularly aggressive in fighting a casino located

in or near Rohnert Park. (*Disclosure:* Pastor Worthington contacted this writer several years ago with a preliminary and unsuccessful inquiry about assisting his effort.)

The new litigation seems well-crafted and certainly has to be dealt with in some manner by tribal attorneys. However, any delay it may create could be short-lived in light of the fact that the critical federal approvals are in hand, with the likely exception of an approved Tribal Gaming Ordinance ("TGO"). (As of this writing, the National Indian Gaming Commission website does not report any approval of a Graton TGO.)

The next logical step for the City of Rohnert Park would be to accept the reality of a Graton casino and begin developing a proposed agreement for the provision of municipal services that would serve the interests of the Tribe and surrounding community.

As for the Graton Rancheria, there truly is the proverbial "light at the end of the tunnel" once the new litigation is resolved, and that could be sooner rather than later. What the tribe surely thought would be a relatively uncomplicated development once it secured Congressional recognition has proven anything but uncomplicated.