

Chukchansi casino closure could last for months

By Marc Benjamin

Chukchani Gold Resort & Casino, closed by a court order Friday because of a fight between rival tribal factions, could remain closed for months while federal officials sort out how to reopen the gaming center in Coarsegold.

An Iowa case provides clues to what could happen at Chukchansi.

In 2003, an Iowa tribe with two leadership factions was sanctioned by the National Indian Gaming Commission, the last extended politically motivated casino closure in the United States.

Meskwaki Casino & Hotel had been taken over by a tribal faction that wasn't authorized by the federal government. When the deadline for the rogue faction to step aside passed the commission chairman issued a temporary closure order, according to federal documents. A permanent closure order was later issued and it was seven months before the casino northeast of Des Moines could reopen.

"The ones physically running the place were not recognized by the Bureau of Indian Affairs and could not come to an agreement to put the recognized folks in place," said Phil Hogen, a former NIGC chairman now living in South Dakota and working as a lawyer. "From what I've heard about (Chukchansi), it's much more explosive than Meskwaki."

In the Meskwaki case, the Sac & Fox tribe was not missing two years of audits, and there were no concerns about the safety of casino and hotel patrons.

On Oct. 7, the commission issued a temporary closure order for Chukchansi because of audits that have not been filed, the latest being 18 months overdue. Two days later, a group led by Tex McDonald forcibly entered the casino and fought with security guards. A fire alarm was pulled and 500 patrons were ordered to exit the hotel and casino. Seven weeks earlier, a similar takeover occurred when a group led by Reggie Lewis and Nancy Ayala forced their way into the casino and holed up on the hotel's 11th floor.

Those two events served as an exclamation point to three years of internal bickering among four to five different groups proclaiming Chukchansi leadership. There were several minor injuries in what was the worst incident at the rancheria since a February 2012 sit-in at the tribal complex ended up in a near-riot and three people were hurt.

Thursday night's confrontation led the commission and state Attorney General's Office to close the casino and hotel. A court hearing on the closure will be held Wednesday in federal court in Fresno.

On Monday, the Chukchansi groups were separated — the McDonald group in the tribal business complex and the Lewis group on the hotel's 11th floor. No one has access to the casino, said Erica Stuart, Madera County sheriff's spokeswoman. Uniformed police officers and sheriff's deputies surrounded tribal facilities and security team members from both groups were not able to come within 1,000 yards of tribal property, including the smoke shop on Highway 41, south of Lucky Lane, Stuart said. She said it will take the sheriff some time to determine if any arrests will be made related to Thursday night's clash.

Gary Montana, a Wisconsin lawyer who represented the McDonald group until a couple of weeks ago, said he thinks the audits need to be in the government's hands before the casino can reopen. Audits are required by the federal government to ensure the tribe is conforming to state and federal gaming guidelines.

Another significant issue last week, he said, was forcing patrons out of the building without allowing them to cash out their winnings, questioning the "integrity of the games."

He said he knew people involved in the Iowa squabble, which was much more confined and not violent.

“They had just two factions,” Montana said. “There (Chukchansi), you have at least four.”

The Lewis and McDonald groups said Monday was a calm day.

“We continue to work toward a peaceful resolution as we get ready for the court hearing,” said McDonald group spokesman David Leibowitz.

From the 11th floor of the casino, Reggie Lewis, who heads the opposing group, said tribal officials have two years of audits “pretty much done” and ready to hand over to federal officials.

In the meantime, Lewis said maintenance issues may be addressed during the closure. Lewis said it may be an opportune time to get workers in for repairs, like carpet cleaning, which is difficult to do while the casino is open. Even if the closure order is lifted Wednesday, Lewis said, it may take several days to reopen the casino, which is Madera County’s fifth-largest employer with 1,100 workers.

A restraining order also was issued to members of a third faction led by Morris Reid, who was last elected to the council in 2011. His supporters were involved in the 2012 incident with Lewis supporters. He said the only thing that can resolve the tribal squabble is a new election.

“The NIGC is questioning the management of the casino,” he said. “We need to go into an election immediately.”

Hogen, the former NIGC leader, left that post in 2009. He said he’s unsure why the NIGC now takes longer to file action against tribes not following Indian gaming regulations than it did under his watch.

“Eighteen months would cry out for action,” Hogen said, referring to the Chukchansi audits. “I don’t think we’d go more than 180 days.”

The extra time afforded Chukchansi means it could be facing a big penalty, however; the NIGC has threatened fines exceeding \$16 million.

Hogen said the NIGC fine must be large enough to deter similar future behavior, while not being debilitating to the tribe.

“We would try to be proportional,” he said. “For really big operations, you would levy a hefty fine, but you look at them on a case-by-case basis.”

Most closures under Hogen’s watch involved what the federal government considered illegal gaming machines on casino properties. But the closures lasted about two or three months.

Gabriel Galanda, a tribal lawyer from Washington state, said the federal government under the Obama administration makes it a practice to stay out of tribal affairs as much as possible.

During the George W. Bush administration, NIGC under Hogen’s leadership seemed to move too quickly, Galanda said.

He said that at first he appreciated the hands-off approach, but in the last few years problems have festered across the country and Chukchansi has become a poster child for everything that is wrong with the government’s hands-off policy.

Enforcement from federal agencies “is almost nonexistent,” he said.

The Chukchansi case “begs some difficult questions regarding why they took so long,” Galanda said. “Chukchansi is a blight on all of Indian gaming; it’s given Indian country a black eye, and it’s given the Obama administration a black

eye.”

Galanda said the federal government should have intervened in Chukchansi’s affairs two years ago. That “might have caused everyone to step in line,” he said. “Their proposed closure order last week was too little, too late and actually made things worse ... like throwing gasoline on a fire.”

Wednesday’s court hearing on the casino closure could be an opportunity for U.S. District Court Judge Lawrence J. O’Neill to take a strong stand.

“There is so much controversy that has been fomented there for so long,” Galanda said. “He may make a statement to not just the Chukchansi, but to all of Indian gaming country and sustain the closure. He may feel that unless he doesn’t do something, who will? He may feel he is the only federal official in the land who can change the status quo.”

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