

Chukchansi factions head to federal court on possible casino reopening

By Marc Benjamin

Security video from Chukchansi Gold Resort & Casino shows some of the confrontations that occurred Oct. 9 when a rival tribal leadership faction entered the hotel-casino. The clash led state and federal government agencies to close Chukchansi Gold. SPECIAL TO THE BEE

Officials with the Picayune Rancheria of Chukchansi Indians will learn Wednesday whether the tribe's Coarsegold casino will reopen sooner or later when a judge hears from state and federal lawyers who ordered it closed.

On Tuesday, regulators were in the 1,800-slot, 42-table Chukchansi Gold Resort & Casino along with a skeleton crew of about 100 employees.

The state Attorney General's office and the National Indian Gaming Commission closed the casino to customers Friday after a fight between two tribal factions forced 500 patrons to leave the casino and hotel Thursday night — some with money on the table and chips to cash in. The closure occurred after members of a tribal faction led by Tex McDonald, which has control of the nearby tribal business complex, forcibly entered the casino and began fighting with security guards loyal to the Reggie Lewis/Nancy Ayala faction. Seven weeks ago, members of the Lewis/Ayala group seized the casino from McDonald's faction.

Judge Lawrence J. O'Neill, who issued the temporary restraining order on Friday to close the casino and hotel because he believed the health and safety of patrons could not be protected, will decide how to proceed.

"I expect that such an order will remain in effect," said Phil Hogen, retired chairman of the NIGC, now working as a lawyer in South Dakota. "Unless they can show that they have satisfied the shortcomings and there is no longer a reason for the restraining order to be in effect."

The NIGC order goes one step further, requiring that the tribe catch up on the last two years of missing audits and file them with the commission.

"If there is a horror story in the audits, it moves to a different level," Hogen said. "Then there would be other grounds for proceeding against the gaming operation."

Because of the missing audits and violation of health and safety rules, the NIGC told the tribe it has five violations and fines accumulating that could exceed \$16 million.

Hogen said he would expect the commission to proportion those fines in the interest of tribal members and employees who had nothing to do with tribal councils' wrongdoing.

He said there have been cases where tribes have been excluded from casino operations and third-party contractors operate tribal casinos because of the risk of a "revolving door" of tribal councils — like Chukchansi.

"They do the hiring and firing and they make the money and turn it over to the tribe with restrictions on how much they get," he said. "That keeps politics out of the day-to-day business."

Wednesday's hearing is expected to be tense and lengthy. The Lewis/Ayala faction announced that it's planning a late-morning rally featuring tribal members and casino workers on the federal courthouse steps. When the 1:30 p.m. hearing begins, the courtroom will be crowded with leadership from three factions and their lawyers, state and federal

officials and their lawyers, and tribal members in the gallery.

Rob Rosette, who represents the Lewis/Ayala faction, blamed the McDonald faction for the government step-in.

“You can have the casino open tomorrow with the restraining order in place if you keep the (McDonald) faction out of the casino,” Rosette said. “We can have it both ways, the casino can stay open and we can have a restraining order to keep the peace.”

Rosette said all weapons are banned from the property now, even for security. He said members of his group will ensure the safety of patrons.

The audits, Rosette said, “should be done any day.” He said tribal officials continue to hold discussions with federal regulators. The government requires the audits as a way of making sure tribes run casinos within state and federal guidelines.

He said he will ask the judge to reopen the casino because more than 1,000 people rely on it to feed their families and pay for health insurance. The casino has been open for a decade.

David Leibowitz, spokesman for the McDonald group, points out that the casino was operating successfully before Lewis/Ayala group members took it over in August.

“The casino had been operating for months under the McDonald leadership,” he said. “Bondholders (for the casino) were paid, per cap (for tribe members) was paid and vendors were being paid. It was only after the Lewis/Ayala group gained control that problems started happening.”

The Morris Reid faction, which also was subject to the casino restraining order and will be represented in court Wednesday, is calling for new tribal council elections as soon as possible.

Reid council member Dora Jones said the continued “bickering is not going to get the casino open. ... We have to get all the sides together.”

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