

State will ask for Chukchansi casino to stay closed (video)

By Marc Benjamin



The empty circular lot in front of Chukchansi Gold Resort & Casino Wednesday, Oct. 22, 2014 near Coarsegold, Calif. A single Madera County Sheriff's department SUV was parked within the circular drive Wednesday morning. The casino was closed Oct. 10. ERIC PAUL ZAMORA — Fresno Bee Staff Photo |[Buy Photo](#)

The state attorney general's office will ask a Fresno federal judge on Wednesday to keep Chukchansi Gold Resort & Casino closed until state officials are convinced the tribe can run the casino without endangering patrons and employees.

"All evidence points to the tensions and confrontations continuing, not abating," said a 14-page brief filed by Deputy State Attorney General William Torngren. The state's brief asks U.S. District Judge Lawrence J. O'Neill to issue a preliminary injunction that would essentially extend the current closure until the tribe can ensure that weapons are kept away from the Coarsegold casino and that patrons, employees and tribal members are safe.

On Oct. 10, the National Indian Gaming Commission and state attorney general closed the casino after an armed clash by the security forces of the Tex McDonald and Reggie Lewis factions the night before. The scuffle forced 500 patrons and employees from the 1,800-slot, 40-table casino and hotel.

The McDonald group's entry was prompted by a federal gaming commission order filed two days earlier that threatened to close the casino Oct. 27 because the tribe failed to submit audits for 2012 and 2013. The commission also threatened the tribe with fines that could exceed \$16 million and would climb by up to \$100,000 each day the tribe failed to comply. After the closure, the commission filed an additional violation against the tribe that could add

another \$25,000 a day in fines.

TIMELINE: Chukchansi casino's creation and controversy

Late Monday, the federal gaming commission confirmed it has received the casino's audits and was reviewing them to determine whether they comply with federal requirements.

The McDonald group is housed at the tribe's business complex across a road from the casino and hotel. The McDonald group had been running the hotel and casino for much of the year until August, when Lewis group members entered the casino in the wee hours of the morning and holed up in the hotel's 10th and 11th floors, where some tribal offices are located. The McDonald group claims it wanted to go into offices in the casino Oct. 9 to gather audit information.

The state says it's now up to tribal officials to resolve the dispute.

"The keys to reopening the casino are in the tribe's hands," Tornngren's brief said.

So far, however, the tribal factions have made little progress, according to a declaration filed by Joginder Dhillon, senior adviser for tribal negotiations for Gov. Jerry Brown.

"Despite the (restraining order's) apparent success, the groups in the intra-tribal dispute have not resolved their dispute and remain poised to take actions that could threaten public safety," Dhillon's declaration said.

The tribe's three factions held a settlement conference Friday in front of U.S. District Court Magistrate Dennis Beck and no progress was reported. While not under a formal gag order, members of the factions said they were asked to keep details of Friday's settlement conference confidential. They return to O'Neill's court Wednesday.

Madera County Sheriff John Anderson said opening the casino is the tribe's incentive to get along.

"Perhaps it will force the tribe to get its act together and do something positive," he said.

In another development, the federal Department of the Interior will not intervene in the Picayune Rancheria of Chukchansi Indians' governance dispute.

In a single-page letter written Friday, Kevin Washburn, the assistant secretary for Indian Affairs, said he was "very concerned about the ongoing conflict at Picayune and the recent closure of Chukchansi Gold Resort and Casino."

But, "I do not think it is appropriate to insert myself in the Picayune leadership dispute."

In February, the Sacramento office for the Bureau of Indian Affairs named a seven-member council it recognized for certain government relationships. The council recognized was from the 2010 election, the last undisputed election held by the tribe. That council included Reggie Lewis, Nancy Ayala and members of another faction that includes Morris Reid and Dora Jones.

A new council was formed in August from members of previous councils. The new council includes Lewis and longtime ally Chance Alberta, as well as Ayala, who until earlier this year led what has become the McDonald faction. Reid and Jones — members of the third faction — were excluded from the new council.

Reid said Monday he thinks the 2010 council is the one that should lead the tribe. "We've got to come together," he said.

McDonald faction spokesman David Leibowitz said he was "not surprised the BIA has again refused to step in and appoint the Lewis/Ayala faction as the leaders of our tribe ... we have been running the tribal government for many months now from our tribe's headquarters and we will continue to do so as we work to reopen the Chukchansi Gold casino and reach a peaceful end to this conflict for our people."

The Bureau of Indian Affairs' February decision was appealed by the Tex McDonald group. The appeal is under consideration at the Department of Interior Board of Indian Appeals in Washington, D.C. The Reid group also has filed suit against state and federal officials demanding a leadership role in the tribe.

Washburn said his agency's hesitancy to step in is borne out the Obama administration's efforts to support "tribal self-governance and self-determination."

"The United States is ill-suited to make such decisions for tribal nations," Washburn said in his letter. "I implore you to work together to resolve this dispute for the good of your tribal government, tribal membership, and the surrounding community for which you have made such a significant impact through a successful operation of your economic enterprises."

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