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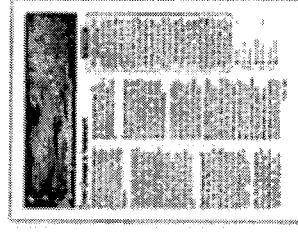
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**KEN ADAMS**

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The Adams Gaming Report is a monthly executive summary of trends and important developments in the gaming industry compiled from over thirty-five industry news

**Bits and Pieces from Indian Country - November 2003**

By Ken Adams  
14 January 2004

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Indian gaming is governed by a complex relationship between federal and state laws as well as the tribal state compacts that are individual to each tribe and each state. Because of the complexity, there is no simple easy-to-understand guide to Indian gaming law or to Indian gaming in general. Therefore, it is difficult to identify trends or to make broad statements about Indian gaming. This month illustrates the point as governors and courts in California, Louisiana, Oregon and New York attempt to deal with Indian gaming, its limits and contribution to state budgets.

Setting the stage and the tone, the United States Supreme Court refused to hear a case, pushing the debate into state courts. In the case under consideration, opponents questioned the governor of New York's authority to negotiate a compact. New York's governor, in response, is proposing legislation validating the compact in question. The new "legislative compact" will include revenue sharing, a key element in most tribal-state discussions lately.

The Supreme Court refused to get into a debate over Indian gambling ...

Justices declined, without comment, to review a 4-3 decision by New York's highest court that found that governors cannot bypass the Legislature when authorizing Indian tribes to establish casinos in that state. New York Daysnews.com, 11-17-03

The Mohawks would share up to 25 percent of potential profits with the state from slot machine gambling at their Akwesasne Mohawk Casino under an accord announced Thursday. The agreement is contingent on the state Legislature ratifying the 1993 tribal-state compact that authorized the tribe to open the casino. Capital News 9, 11-17-03

The Pataki administration is drafting legislation that would ratify at least one Indian casino compact, but the tribe would have to share slot machine revenue ... proposed bill would legalize the St. Regis Mohawk Tribe's 1993 compact. ... The Oneidas could get the right to install the machines at their Turning Stone Casino in Verona if they honor a similar revenue sharing deal, the source said. James M. Odato, Albany Times Union, 11-26-03

New York also illustrates another very complex issue in Indian gaming - sovereign tribal territory. The southwest tribal territory is sometimes easier to define and understand; the Taos tribe has occupied the same pueblo for nearly 1000 years. On the Pacific Coast, almost all of the tribes were moved from their original location to government designated reservation; often times, particularly in Oregon and Washington, different tribes were mixed together on the same reservation. Because of the variety of ways that tribes acquired or did not acquire land, defining exactly what is or what is not a proper place for a tribe and thereby a casino, can become very contentious.

On the east coast, the issue can be much more complicated. The tribes were often driven from the their original lands to other locations, often times a thousand or more miles away. But like Jews dreaming of returning to the promised land, the memory of home did not fade with the passing of a hundred or even two hundred years. In the forefront of this issue is New York; tribes in Oklahoma and Wisconsin claim land in New York. This month the Oneida tribe of Wisconsin bought land in New

publications. It is an ideal read for the busy executive who needs a quick overview of the stories and trends most important to the casino business decision-maker.

Subscriptions to the Adams Report are available at [www.casinocitypress.com](http://www.casinocitypress.com).

## York and plans to claim a piece of the ancestral homeland.

The Oneida Indians of Wisconsin plan to announce today that they have acquired two large tracts in New York to set in motion a bid for a casino as part of a settlement of the tribe's longstanding land claims. The tribe bought about 250 acres in Verona, 30 miles east of Syracuse. ....Kathy Hughes, vice chairwoman of the Oneida Nation of Wisconsin, said, "The Oneidas have one of the oldest and largest outstanding land claims in New York, if not the U.S." She added. Charles V. Bagli, New York Times, 11-20-03

In California, finding a location for an unrecognized tribe or finding land that can be placed in trust and used for a casino is a major problem. Some tribes have found communities eager to have a casino and others have found opponents that seem willing to fight to the bitter end to keep a casino from opening in their community. That, however, is not the biggest problem facing tribes in California. The new governor, a proposed ballot referendum and the issue of revenue sharing are dominating California. California needs revenue, the new governor needs some victories and some of the tribes are eager to get over the public relations disaster that resulted from the millions of dollar in political donations during the recall election.

The initiative would not directly open the way for slot machines at the major card rooms and racetracks...it would give tribes and Schwarzenegger 90 days to renegotiate key details of the compacts...Tribes would be expected to pay 25%... to the state... If the tribes fail to agree, tracks and card rooms would receive as many as 30,000 slot machines and would pay 35% of their net winnings to cities and counties. Dan Morain and Bill Dwyre, Los Angeles Times, 11-21-03

In what could be read as a peace offering to California's casino tribes, Gov. Arnold Schwarzenegger said Friday that he opposes an initiative that would threaten the tribes' monopoly on slot machines. ... "Because the governor prefers to negotiate with the tribes directly himself and on his own terms," said spokesman Vince Sollitto. Steve Wiegand, Sacramento Bee, 11-22-03

Ten of the 94 California Indian tribes that have or want casinos said Friday they

are willing to negotiate...in a letter to Schwarzenegger, the 10 said they are open to giving the state a portion of the revenue....if they are allowed to operate additional slot machines...tribes say they are approaching Schwarzenegger "with renewed vigor and a sense of urgency." Associated Press, Reno Gazette-Journal, 11-20-03

**Actually maybe there is a trend or two buried in all of this: Many states need revenue and governors in those states are willing to bargain slot machines for revenue. In Louisiana, for example, the lame duck governor is willing to promise a compact for revenue, just as former governor of California Gray Davis was.**

The Jena Band of Choctaws will have to cover any possible tax losses to the state to get an agreement to operate a reservation casino in northwestern Louisiana, Gov. Mike Foster says ... some sort of revenue-sharing agreement will have to be included in any compact he signs with the tribe. Foster will leave office Jan. 12 ... "If they make up the revenue that is lost to the state by them being there, I can work with them," the governor said. Associated Press, Gainesville Sun, 11-20-03

**Another trend that might be found in the month's news is litigation to stop tribal-state compacts. The Supreme Court clearly sent the debate back to the state courts, and that sets the stage for a state to attempt legislative or constitutional bans on Indian casinos. Back in New York, that is the clear intent of one side in the debate.**

... Cornelius Murray, the lawyer representing the group that sued...said: "It paves the way for a second lawsuit, now in the Appellate Division, Third Department of the State Supreme Court, which will answer the ultimate question of whether Indian casino gaming is constitutional, even if the governor receives legislative authorization." New York Daysnews.com, 11-17-03

**In Oregon, the first state court to rule after the Supreme Court's action refused to stop the construction of an Indian casino.**

The state Supreme Court threw out a suit to block a new Indian casino on the

Oregon coast on Tuesday, deflating the hopes of anti-casino activists. Casino opponents had argued the governor could not sign a gaming compact with a tribe because the state's constitution prohibits casino gambling. ...The Oregon case targeted one of these agreements, following a strategy that has been successful in other states and is gaining momentum as a legal tool for opponents of Indian gaming. Similar cases in New York, New Mexico and Kansas have been successful in blocking casinos, said Alex Johnson, a New Mexico attorney and expert on Indian gaming law hired by the Oregon group that filed the suit, People Against a Casino Town. ...Tuesday's ruling appeared to quash any hope of casino opponents to legally block the 400-slot Three Rivers Casino and convention center in Florence before construction is expected to begin next year. Andrew Kramer, Associated Press, Statesman Journal, 11-26-03

These two trends do not go unnoticed in Indian country. In fact, as you might suspect, following the events and trends in every state is a routine part of tribal politics. Tribes are quick to see an opportunity in compacts or court decisions in other states and as quick to identify threats from them. Unlike mainstream casino operators, Indian tribes meet and discuss common issues. One thing is clear from the last two years in California, Indian tribes have political power. Using casino cash and political power on a national scale is gaining steam. At the annual meeting of the National Congress of American Indians prospective presidential candidates made an appearance, courting tribal support. American Indian tribes have arrived as a political force. The pressure from communities in New York or California is strengthening the national Indian political coalition and causing tribes to work harder to help their friends get elected and their enemies defeated. This would be a clear third trend that dominates Indian gaming.

Jewell James thinks every voice in Indian country should be heard when tribal sovereignty is challenged. ...3,000 Indian leaders from around the nation gathered here for the start of the 60th annual National Congress of American Indians conference... "Sovereign Nations, One Enduring Voice," will promote unity and awareness. ...Former Vermont Gov. Howard Dean, Ohio Rep. Dennis Kucinich and retired Army Gen. Wesley Clark were expected to appear at the

convention, and other candidates planned to address the group via satellite.

Patricia L. Garcia, Associated Press, Aberdeen News, 11-17-03

Indian country has become the center point of the American gaming dialogue. There is a growing resistance to locating tribal casinos close to otherwise non-gaming communities. The legal battles are far from finished and it still isn't clear whether local communities or states will be able to stop federally recognized tribes from operating casinos without paying any "fee" to the state. And for every community (or state) that does not want an Indian casino, there is another that sees Indian casinos as a fiscal savior. The tribes are not passive in this process, with increasing political and legal power; the tribes will take more control over their own destiny.

To the gaming industry the political and legal battles are simply in the way. Just a few years ago, the major gaming operators lobbied against any expansion in Indian gaming. That has changed; not only have the manufacturers all crossed the line and now support any expansion in Indian gaming, but operators too see a brighter future in Indian gaming. The opportunity for growth and expansion is in Indian country. If, for example, there is an agreement in California between the tribes and the state, more slot machines could be sold there than in the rest of the country, unless of course more Indian casinos open in New York, or the move into Class II games by IGT and Alliance is successful. But in any case most of the action will be in Indian country. There will be more racinos and that represents opportunity for manufacturers and a limited number of operators. Regardless of the company, the domestic opportunity is most likely to be in Indian country. Indian gaming has come of age and moved from the sideshow to center stage.

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