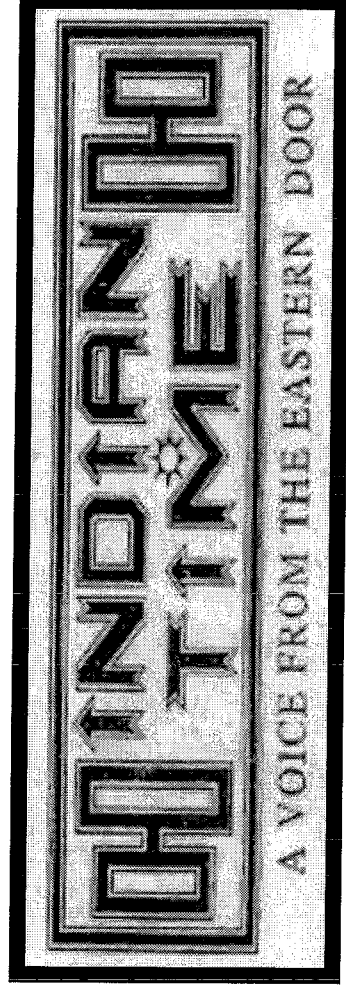


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N.Y. SUPREME COURT TEMPORARILY HALTS CASINO DEAL

- B.I.A. SAYS M.O.U. IS PREMATURE

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Talk about roller coasters.

After the breathtaking ups and downs of the last couple of weeks regarding a tentative agreement (Memorandum of Understanding/MOU) between New York Gov. George Pataki and the Saint Regis Mohawk Tribal Council, encompassing a

*** \$100 million Mohawk land claims deal involving Northern Franklin and St. Lawrence Counties.**

* a Mohawk casino in the Catskill region.

* slot machines at the Akwesasne Casino.

* and a negotiated taxation deal between the State and the Council thrown into the mix, it was back to business as usual at Akwesasne this week with only a New York State Supreme Court halt order, a BIA warning and the politics of an approaching June 7 election to keep things interesting.

On Monday (May 19), New York State Supreme Court Justice Joseph Teresi, in Albany, granted a *temporary* restraining order barring the State from issuing any more Tribal casino compacts, including the one being considered for the St. Regis Mohawks at Kutsher's Country Club on Anawana Lake in the Catskill resort region.

Judge Teresi's order will allow opponents of the casino compacts to argue for an injunction on Friday (May 23). In this case, an injunction would be an order from the high court which would prohibit the Tribe and the State from continuing efforts to reach a final signed agreement (MOU) on the land claims/casino/taxation deal signed by the two parties on May 12th at the Capital in Albany. Cornelius Murray, a lawyer for groups fighting the expansion of off-reservation Indian gaming in the State, told the ALBANY TIMES-UNION, "It's a small victory in a big war."

The Saratoga-based attorney sought the restraining order after the Tribe and the Governor announced their wide-ranging land claims deal last week, which would also authorize slot machines at the Akwesasne Mohawk Casino at Hogansburg.

According to Murray, the injunction is needed while the Court of Appeals considers the legality of gambling in the State.

The lawyer said if a compact is awarded before the court reaches a decision, State courts would be unable to decide the case because those courts have no jurisdiction over Indian affairs.

Murray cited a legal theory, known as the "Indispensable Party Rule", which could prevent State courts from ruling on the case *after* a compact is completed because the courts have no jurisdiction over the contractual rights of Indians Tribes. Murray told the JOHNSON NEWS SERVICE this week that if Teresi makes the order permanent, it could reflect his view on the lawsuit.

In 2001, Teresi ruled that the 1993 State/Tribal compact that allowed the Mohawks to open the Akwesasne Mohawk Casino at Hogansburg was illegal because it had not been approved by the State Legislature. However, the judge did not order the casino, which opened in 1999, closed.

Judge Teresi's decision was upheld by the Appellate Division of State Supreme Court, and the case is now before the Court of Appeals, the State's highest court.

A Deputy for New York Attorney General Elliot Spitzer, Richard Rifkin, said his office plans to argue that the proposed compact is allowed under State law. "It's an important proceeding," he said. Judge Teresi's ruling, he explained, instructed the State to do nothing "between now and Friday (May 23); let's leave the status quo for these few days."

Meanwhile, a spokeswoman for Gov. Pataki, Suzanne Morris told the NEWS SERVICE the temporary order shouldn't interfere with the State's efforts to forge a compact to allow the Tribe to open the Catskill casino. Of the temporary injunction, she said, "It's temporarily preserves the status quo. I t's more of a formality."

But Assemblyman Jake Gunther (D-Forestburgh), whose district includes Sullivan County where the Mohawks want to build their \$500 million casino in partnership with gaming corporation Park Place Entertainment, wasn't being so breezy about Judge Teresi's decision. He told the OTTAWAY NEWS SERVICE the order could seriously stall the Mohawk/Catskill casino plan. "That's a pretty heavy decision," he said of the ruling. "I've always maintained the court cases have to be resolved. When somebody commits to a project before that, they'd be taking a risk."

Which is why Park Place has said in recent months that it will not continue with the Mohawk/Catskill gaming plan until the court issues have been cleared from the table. To do otherwise, said one executive, would be viewed unfavorably by stockholders.

Assemblyman Gunther has been the shaker behind a move to amend the New York State Constitution to legalize commercial casino gambling.

In the tangled web of casino gambling in New York, Supreme Court Justice Teresi is also considering a lawsuit challenging the constitutionality of a 2001 law that authorized the Governor to negotiate compacts for up to three Indian owned casinos in Western New York and three in the Catskills.

Despite the fact that three Tribal casinos are now operating in the State, the Akwesasne Mohawk Casino at Hogsburg, the Oneida's Turning Stone Casino at Verona and the Seneca Niagara Casino at Niagara Falls, New York's Constitution bans commercialized gambling.

The anti-casino coalition, represented by attorney Murray, has asked the court to prohibit the State from taking action in respect to any compact until the court has decided the Mohawk case.

New York has until Friday, May 23rd to respond.

MOU IS PREMATURE

The U.S. Department of Justice, the Bureau of Indian Affairs (BIA) parent arm, said late last week that the Pataki administration made a "premature announcement" by disclosing a land claim settlement and casino deal (MOU) with the St. Regis Mohawk Tribe.

Deputy Assistant Attorney General Jeffrey Bossert Clark, in a letter sent May 13 to Gov. George Pataki's Indian Affairs consultant, John O'Mara, wrote, "The United States has made no commitment to fund a settlement....nor has the Interior Department authorized gaming by the Mohawks(s) in the Catskills."

The letter, reported the ALBANY TIMES-UNION on Thursday, May 15th, came in response to the Governor's announcement on May 12th that the St. Regis Tribal Council and the Administration had reached an understanding on a \$100 million land claim settlement, a casino in the Catskills, slots for the Akwesasne Casino and a tax deal regarding the sale of cigarettes and gasoline to non-Mohawks at reservation stores in Hogsansburg.

The letter stated that both the U.S. Justice Department and Interior have told O'Mara and other State representatives "that the United States has not agreed to fund any portion of the Mohawk land claim at this time."

The proposed settlement relies heavily on both State and Federal money.

According to the TIMES-UNION, Clark said that a casual reader of the press accounts of the announcement could be misled to believe that the parties to the Mohawk land claim were very close to a "real settlement and that the Interior Department has made a decision regarding the Tribe's ability to operate a casino in the Catskill region."

Clark worried that a "similar premature announcement" in February 2002 on a proposed \$500 million settlement with the Oneida Tribe "increased animosity between the State and some Tribal plaintiffs which has made settling the claims in that case more difficult."

Saint Regis Mohawk Tribal Spokesman Ray Cook downplayed the letter sent to the State from U.S. Justice, saying the Tribal Council has simply signed a Memorandum of Understanding with Pataki, and the members of the Akwesasne community will have to vote on any final deal before a full agreement can be concluded.

Speaking of Clark's letter, Cook told the TIMES-UNION, "The fellow is just ill-informed. We do recognize there's a process in getting this MOU into formal agreement."

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