Litigation

Q: What happens if the Board of Supervisors rejects the Intergovernmental Services Agreement?
A: Our other option is to continue to litigate and hope that we win in the courts. If we win, the tribe could not operate a casino with "Class III" slot machines, but could operate a casino with "Class II" machines based on bingo and card games like poker. Federal law does not require a tribe to negotiate with a State OR a local government in order to operate a casino with Class II machines. Technology has made Class II machines much more appealing than they were just a few years ago. The risk is that if we lose in court or the tribe operates a Class II casino, then the County may be stuck funding substantial law enforcement and other county services – and lose the ability to control issues and costs that are really important to County residents. If the Tribe installs Class II machines, the County receives no funding.

Q: Should we just continue to fight the casino in the courts?
A: It has been very expensive to pursue litigation to stop the casino. In addition, in order to protect the County, we have had to carry out our obligation under the tribal-state compact to negotiate with the tribe for a mitigation agreement. We have been waiting for over two years for the federal court in Washington DC to rule on our case challenging the Department of Interior's approval of the compact. There is the potential that the courts will not take up our case any time soon and meanwhile we have almost run out of time to complete a mitigation agreement with the tribe in the time allowed the County in the tribal-state compact. As a result, if no agreement can be reached, the Tribe has the option of pursuing binding arbitration under the state compact – and break ground on its casino as early as this Spring – without addressing the fundamental concerns of the County.

Q: If the Tribe does break ground, then can't the County seek an injunction to stop construction that will force the courts to act?
A: Yes. At this point, there would be another opportunity for litigation. However, the County at this point would have to show that the Tribe, the Federal government and the State have caused direct damage on the County and that the County is likely to prevail on the merits of the case. Additionally, at this point County taxpayers would also be funding another litigation risk as they might have to fund a bond and pay damages if the County lost its case.

Q: What legal agreements does the Tribe have working in its favor?
A: The Tribe has completed its Indian Lands Determination and restoration process through both the courts and necessary federal agencies. The National Indian Gaming Commission (NIGC), which implements the Indian Gaming Regulatory Act (IGRA), has ruled that the tribe's fee lands in Buena Vista are eligible for gaming. Also, the Tribe completed its Compact agreement with the State of California over three years ago. Amador County opposed this Compact Agreement (and challenged the federal government's approval of the Compact in court) because we felt that it was important to stop the expansion of gaming in our County and because we did not think that the State adequately addressed our concerns. While the tribe's agreement with the State (the

Compact) requires the Tribe to negotiate with the County over mitigating the impacts of its casino, the Tribe can seek arbitration if an agreement is not ratified by the County. That is the point we are at today. But looking back even further, Indian gaming in California was legitimized in 1998 when California voters approved Proposition 5, which provided that the State of California must enter into a specific agreement with Indian tribes who wish to conduct casino gambling activities on Indian lands in California. Although the courts invalidated Proposition 5, the voters re-enacted its provisions in 2000 in a constitutional amendment allowing Indians to conduct casino gaming in the State.