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Tribe's Bid for New Shasta Casino Revived

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(CN) - Federal officials improperly ignored an Indian tribe's offer to close its casino in exchange for permission to build a larger one on proposed trust land, the 9th Circuit ruled Tuesday.

The Redding Rancheria's reservation in Shasta County is home to descendants of Northern California's Pit River, Wintu and Yamo Indians, as well as the Win-River Resort and Casino.

For more than a decade the tribe has hoped to convince the Department of the Interior to take into trust about 230 nearby acres called "Strawberry Fields," and allow construction of a second casino there.

As a "restored tribe," having been stripped of its federal status in the 1960s only to have it returned in the 1980s, the Redding Rancheria is barred by the Indian Gaming Regulatory Act from operating more than one casino on restored land.

Rules for gaming on restored lands require the tribe to have submitted its application within 25 years of gaining back federal recognition - which it did - and not to allow "gaming on other lands."

In 2010, seven years after first applying for trust status for the Strawberry Fields land, the tribe sent a letter to the agency promising to close Win-River if it built a new casino. The secretary of the Interior denied the application just eight days later.

Redding Rancheria challenged the denial in a federal lawsuit, calling the rules and limitations governing restored tribes unreasonable and arbitrary.

U.S. District Samuel Conti in San Francisco ruled for the government, but a divided three-judge appellate panel remanded the case after finding that the agency had failed to "meaningfully address the tribe's alternative position."

Writing for the majority, Judge Mary Schroeder found "nothing unreasonable about the regulation's intent to prevent restored tribes from acquiring additional land to operate multiple gaming operations."

"Restored tribes, if allowed to operate an indefinite number of casinos on newly restored lands, would of course have an advantage over established tribes," Schroeder wrote, "but it is not clear that allowing restored tribes to move a casino to a different location would necessarily have the same effect."

The panel ordered the District Court in San Francisco to return the tribe's application to the agency, "for consideration of the tribe's proposal to close its existing gaming operation upon construction of a new facility."

Dissenting only to the remand, Judge Consuelo Callahan argued for ending the case.

"Our sympathy for a small, struggling tribe does not justify formalizing a claim that was never clearly presented to the secretary, was not fairly presented to the district court, and is of questionable merit," she wrote. 

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