

Supreme Court gives local gaming tribe big win

Court lets stand ruling that state can't require casino payments

By Michael Gardner

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SACRAMENTO — A North San Diego County Indian tribe's lengthy legal challenge paid dividends Monday when the U.S. Supreme Court let stand a ruling that California violated federal law in demanding payment from a casino in return for permission to add slot machines.

"The court said you have to follow the law," Bo Mazzetti, chairman of the Rincon Band of Luiseno Mission Indians, said in an interview. "That's all we are asking."

The Supreme Court, without comment, refused to take up an earlier 9th Circuit Court of Appeal ruling that the state's approach was an illegal tax under the federal Indian Gaming Regulatory Act that governs how tribes operate Las Vegas-style casinos.

Rincon, which jointly operates the Harrahs Rincon Resort and Casino in Valley Center near Escondido, will now open fresh negotiations with the administration of Gov. Jerry Brown. If the impasse persists after 60 days, a court-appointed mediator would step in.

"No comment on Rincon," Gov. Jerry Brown, who as attorney general defended the state's assessment on slots, said as he was leaving a budget news conference. Asked if he would ask tribes for revenue sharing moneys in new negotiations, he only said, "I will follow the court's decision."

A significant amount of money — about \$360 million a year — is

collected through the revenue sharing fees on slots from numerous tribes.

Those disputed assessments were first imposed by then-Gov. **Arnold Schwarzenegger** shortly after he took office in 2003 as he and lawmakers sought much-needed revenues for the state. The idea was to pump up the depleted general fund by securing tribal commitments of paying a percentage of net winnings. In return, tribes could add more slots.

But that conflicted with federal law, Rincon argued, because fees were supposed to be assessed only to address the direct impacts of the casinos, such as increased traffic.

An early proposal would have allowed Rincon to add up to 900 slots to its 1,600-machine stable.

The tribe said would have realized just \$2 million of the \$40 million in new revenues generated by the expansion. The state would have collected the other \$38 million, according to Rincon's figures.

"No business would be asked take this type of deal, let alone agree to it," Rincon said in a statement responding to the court ruling.

It was not immediately clear whether the decision will sweep in those tribes that earlier conceded to the state's conditions attached to agreements for more slots.

Sacramento Attorney Howard Dickstein, who represents the Pala band of San Diego County and two other large gaming tribes, is convinced the ruling will force the Brown Administration to reopen all of the deals.

"Pala will request it on this point," Dickstein said.

Pala, which operates a large casino and resort complex along

Highway 76, was the first tribe to agree to the state's demands as part of an expansion to lift a 2,000-slot cap imposed by its 1999 compact, he said.

As a result, Dickstein said Pala has paid the state about \$18 million a year.

The federal appellate court, in a 2-1 decision issued in 2008, did not address the question.

"We express no opinion concerning the validity of those (signed) compacts," the court noted.

However, the court signaled that tribes, by agreeing to the state offer, would likely be held to its terms until new compacts are signed.

"Those tribes agreed that the revised exclusivity offered and the financial benefits they would receive from amending their 1999 compacts, were satisfactory to them," the court said.

The difference is Rincon balked. The tribe contends that federal law banned such mandatory general payments.

The ruling could pose a future dilemma for the state and tribes, partly depending on voters.

For some time there have been rumblings that non-Indian gambling interests could launch an initiative aimed at bringing full-scale Las Vegas-style games to California to compete with tribal casinos.

Some analysts believe voters may be receptive if it means more revenue for the state, given the California's persistent budget woes and resistance to new taxes.

Rincon, for its part, said in a statement after the ruling that it was open to helping as long as the revenue sharing formula was "fair" and went for local needs.