

# Lobbyists Warn Of Off-Reservation Gaming Backlash

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*A revised federal policy aimed at easing limits to new American Indian casinos off existing reservations could fan the flames of congressional opposition to the spread of tribal gambling, according to lobbyists and lawyers.*

“Ultimately they’re going to see this as being a mistake,” a Washington, D.C. lobbyist said of this week’s decision by the U.S. Department of Interior to [rescind Bush administration “commutability” standards for off-reservation casinos](#). “If I’m a tribe that has an off-reservation gaming project in the works, I’m cheering yesterday, but wait a couple of weeks,” warned the lobbyist, who asked to remain anonymous.

The new policy announced Monday by Larry Echo Hawk, Interior’s assistant secretary for Indian Affairs, may also further jeopardize efforts for a [congressional “fix” to Carcieri v Salazar](#), a 2009 U.S. Supreme Court ruling limiting Interior’s ability to place land in trust for tribes. “My knee-jerk reaction is [the new policy] will make it more difficult to get a Carcieri fix,” said Jana McKeag, president of Lowry Strategies. “The people opposed to a fix don’t want to open up gaming beyond existing tribal borders.”

“Tribes have been trying to separate gaming from the land/trust issue,” John Tahsuda, partner in DC Navigators Global, said of efforts to remedy the court ruling. “It’s difficult because politically the two issues get intertwined.”

Tahsuda called Echo Hawk’s decision on off-reservation casinos “throwing gas on the fire.”

Gambling observers are also skeptical the Obama administration policy will lead to expansion of Indian casinos, particularly if the Department of Interior needs to retrench against an anticipated backlash from state and community leaders as well as such powerful off-reservation opponents in Congress as Harry Reid, the Senate Majority Leader from Nevada, and Dianne Feinstein, Democrat of California.

“There’s going to be some push-back,” said Joe Valandra, a former chief of staff for the National Indian Gaming Commission. “It’s just a question of how many places the push-back comes from and how intense it is.”

Pending are about 30 proposals by developers and existing, newly recognized and landless tribes seeking trust lands for casinos. The proposals including highly publicized, off-reservation projects in Long Island and the Catskills in New York.

On Monday, Echo Hawk rescinded a 2008 memo by then-Interior Secretary Dirk Kempthorne that blocked tribes from establishing casinos beyond commuting distance from reservations, a distance some interpret as 40 miles. Kempthorne’s memo “was unnecessary” and “issued without the benefit of tribal consultation,” Echo Hawk said. “We will proceed to process off-reservation gaming applications in a transparent manner, consistent with existing law,” he added. Federal regulations require that Indian tribes seeking off-reservation casinos must obtain land in trust status, get approval from the state governor and enter into a tribal-state gambling agreement, or compact. Doing away with Kempthorne’s “commutability” standards will generate renewed interest in efforts by the [St. Regis Mohawk tribe of New York to build a casino in the Catskills](#), 350 miles from its reservation. The Stockbridge-Munsee Tribe of Wisconsin is also [seeking a Catskills casino](#). The Jemez Pueblo of New Mexico and Menominee and Lac du Flambeau tribes of Wisconsin have shown interest in projects more than 200 miles from their reservations. Elsewhere, the [Tohono O’odham Nation of Arizona](#) and newly-recognized [Shinnecock Tribe of Long Island](#) are also exploring off-reservation casino ventures. The once landless [Cowlitz Tribe](#) plans to build a casino on a newly established reservation near Vancouver, Wash. Still, rescinding the Bush administration guidelines may not mean the Department of Interior will smile on off-reservation projects.

“You might say it’s a relatively steep hill to climb,” Echo Hawk told the Associated Press. “It says in the regulations the farther you go from the reservation, the greater the scrutiny.”

“I don’t think anyone should be looking at this as if now we’ve opened the gates and we’re going to start approving casinos at great distances,” Echo Hawk said.

“Nothing has been implied other than the 2008 guidance is now out of the

way," Valandra said. "We don't know what the impact on the process will be. We have to wait and see what decisions, if any, come out of Interior in the next 60 to 90 days.

"There's been no promise of action," Valandra said, "only a promise the policy has changed."

Sen. Charles Schumer, D-N.Y., who lobbied Interior on behalf of St Regis Mohawk, said the commutability rule was an "insurmountable hurdle" for the Catskills casino, which he contends will generate jobs and state revenue.

But Feinstein called the new policy "a disaster for Californians who may face an unwelcome casino in their community."

Feinstein and Senate Minority Whip Jon Kyl, R-Ariz., are **sponsoring legislation this year** to require tribes seeking off-reservation casinos to establish ancestral and modern ties to land placed in trust for casinos. Tom Rodgers, lobbyist for the National Indian Gaming Association, said existing regulations are sufficient to handle the few cases of off-reservation casinos pending before administration officials. There are some 1,300 land/trust applications pending with the Department of Interior, he said, and less than 30 involve casinos.

In an election year, Congress is obsessed with unemployment and the economy and not concerned with off-reservation casinos, said Rodgers, who called additional regulations "a solution in search of a problem."

But off-reservation gambling is still a divisive, volatile issue.

Certain of the nation's 565 Indian tribes and Alaska Native villages fear some kind of congressional backlash, generated in part by the **perception** that tribes are less indigenous, culturally rich governments than purveyors of gambling. James Ramos, chairman of the San Manuel Band of Serrano Mission Indians of San Bernardino, Calif., has fought attempts by tribes to establish casinos on Serrano ancestral lands in nearby Barstow.

San Manuel helped create a coalition of 30 tribes seeking a new federal policy on off-reservation gambling. "We seem to have forgotten it is our cultural sovereignty that gave rise to tribal government gaming," Ramos said.

"I strongly believe our tribal cultural sovereignty, including our aboriginal lands, should never be dismissed in favor of economic plans that benefit developers who prey on desperate tribes and non-tribal communities seeking economic development."