



## Appeals court upholds decision on Michigan tribal casino

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By **KEN THOMAS**  
The Associated Press

WASHINGTON (AP) — A proposed Indian casino in southwest Michigan moved closer to reality Tuesday when a federal appeals court upheld a decision by the government to set aside 147 acres of land for the facility.

The Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians, also known as the Gun Lake tribe, has been working for a decade to develop a new casino in Allegan County near Grand Rapids. It would employ about 1,800 people and have about 2,500 electronic gambling machines and 80 tables.

The U.S. Court of Appeals for the District of Columbia Circuit affirmed the decision by the Interior Department to take the land in Wayland Township into trust for a casino. The three-judge panel rejected arguments from gambling opponents that the decision violated federal environmental laws.

An attorney for Michigan Gambling Opposition said it would appeal to the U.S. Supreme Court.

MichGo sued in 2005 to block the government from taking the land for the tribe's use. A federal judge in 2007 ruled in favor of the government but issued a stay preventing the land from being taken into trust until the appeals are settled.

James Nye, a spokesman for the tribe, said it intends to break ground on the site at the "earliest possible date." He predicted the ruling would be its final legal hurdle before the U.S. Interior Department sets aside the land for the casino.

Gambling opponents have argued that the government violated environmental law because the agency did not prepare an environmental impact statement and that a section of Indian law is unconstitutional.

The court ruled the Interior Department was justified in finding that there was no significant impact on the surrounding area. Judges Douglas H. Ginsburg and Judith W. Rogers upheld the section of Indian law, arguing it authorizes the Interior secretary to further economic development and self-governance among the tribes.

But MichGo took solace in a dissent from Judge Janice Rogers Brown, who wrote that a section of Indian law is an unconstitutional delegation of legislative power because it does not provide standards to guide the Interior secretary.

Brown said it lets the Interior secretary "take land in trust for whichever Indians he chooses, for whatever reasons."

John Bursch, a Grand Rapids attorney representing MichGo, said the group was encouraged by the opinion and said Brown's dissent would bolster its case for seeking review.

Democratic Gov. Jennifer Granholm and the tribe signed a tribal compact last year specifying state revenues from the casino. The Michigan House approved the deal, and the compact is awaiting action by the state Senate.

The plan would give the state 8 percent of the casino's take from slot machines for the first \$150 million. The state would receive 10 percent or more of the revenue from slots above the \$150 million threshold.

Matt Marsden, a spokesman for Senate Majority Leader Mike Bishop, R-Rochester, said GOP leaders have been awaiting the decision before voting on the compact. Marsden said the ruling was being reviewed, and a vote on the compact was expected this year.

Tribal officials have estimated that Michigan would receive about \$15 million from the casino during its first full year of operation, while local governments would get another \$3 million.

Construction is expected to take 12 to 16 months following groundbreaking.

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Associated Press Writer Tim Martin in Lansing, Mich., contributed to this report.

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On the Net:

Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians: <http://www.mbpi.org>

Michigan Gambling Opposition: <http://www.michgo.com>

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