

AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL ARBITRATION TRIBUNAL

THE QUECHAN TRIBE OF THE FORT
YUMA INDIAN RESERVATION,

Claimant,

Re: 73 181 00395 07 LOPE

and

COUNTY OF IMPERIAL,

Respondent.

AWARD OF ARBITRATOR

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the Amendment to the Tribal-State Compact (hereafter "Compact") between the State of California and the Quechan Tribe of the Fort Yuma Indian Reservation (hereafter "Tribe") which provides for binding arbitration in Section 10.8.9(a), and having been duly sworn and having duly heard the proofs and allegations of the Parties, and the arguments of counsel, hereby presents this REASONED ARBITRATION AWARD.

The Tribe, which currently operates a small gaming facility on its reservation in Imperial County, wishes to expand its gaming operations. It plans to build and operate a Casino offering table games and a larger number of slot machines and a hotel including recreation facilities (hereafter "Project").

The Compact requires the Tribe to negotiate an Intergovernmental Agreement (hereafter "IGA") with Imperial County (hereafter "County") which addresses impacts that may occur off the Tribe's reservation as a result of any new gaming facilities constructed by the Tribe.

Specifically, the four areas of concern, stated in Compact Section 10.8.8(a)(i)-(iv), are:

"(i) Timely mitigation of any Significant Effect on the Off-Reservation Environment (which effects may include, but are not limited to, aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, water resources, land use, mineral resources, traffic noise, utilities and service systems and cumulative effects,) where such effect is attributable, in whole or in part, to the Project unless the parties agree that the particular mitigation is infeasible, taking into account economic, environmental, social technological or other considerations.

- (ii) Compensation for law enforcement, fire protection, emergency medical services and any other public services to be provided by the County to the Tribe for the purposes of the Tribe's Gaming Operation as a consequence of the Project.
- (iii) Reasonable compensation for programs designated to address gambling addiction.
- (iv) Mitigation of any effect on public safety attributable to the Project, including any compensation to the County as a consequence thereof."

The Tribe's environmental impact report, required by the Compact, addressed the potential off-reservation impacts of the Project. It was completed and published in March 2005. Negotiations between the Tribe and the County ensued. After two and one-half years of negotiation, the Tribe and the County reached an agreement on all of the language of the IGA except for one issue.

The County requested the addition in the IGA of language that would require the Tribe to enforce California state court child and spousal support orders pursuant to California state law. The following is the wording of the requested provision:

"10. The Tribe shall, with respect to the earnings of any person employed at the Gaming Facility, comply with all earnings withholding orders for support of a child, or spouse or former spouse, and all other orders by which the earnings of an employee are required to be withheld by an employer pursuant to Chapter 5 (commencing with section 706.010) of Division 1 of Title 9 or Part 2 of the California Code of Civil Procedure, and with all earnings assignment orders for support made pursuant to Chapter (commencing with section 5200) of Part 5 of Division 9 of the California Family Code or section 3088 of the Probate Code."

The issue to be decided in this binding arbitration, required by the Compact to resolve the disagreement between the Tribe and the County, is whether or not this provision must be included in the IGA between Claimant Tribe and Respondent County.

The Tribe argues that this provision should not be included in the IGA because it is not a matter that is a required subject of negotiation in any of the four subsections of Compact Section 10.8.8(a). The County disagrees and argues that the provision is "...on the whole consistent with the terms and spirit of the Compact."

The operative language of the Compact is very specific. The enforcement of child and spousal support orders is not related to "...compensation for programs designated to address gambling addiction..." (Compact Section 10.8.8(a)(iii)) or "(m)itigation of any effect on public safety attributable to the Project..." (Compact Section 10.8.8(a)(iv)).

While the Tribe's Gaming Operation may increase the need for public services, such as law enforcement, fire protection and emergency medical services, and it could be argued that financial support from the County's social service agency for persons who are unable to collect child and spousal support orders from Project employees is a public service, the enforcement of child and spousal support orders does not come within subsection (ii) of Compact Section 10.8.8(a). That subsection specifically states

that any increase in public services to be provided by the County must be "...provided by the County to the Tribe for the purposes of the Tribe's Gaming Operation as a consequence of the Project." (Emphasis added.)

Finally, the enforcement of support orders is not related to "...any Significant Effect on the Off-Reservation Environment... attributable, in whole or in part, to the Project..." (Compact Section 10.8.8(a)(i).)

Consequently, Claimant Tribe is not required to include the child support and spousal support enforcement language requested by Respondent County in their Last Best Offer in the final Intergovernmental Agreement.

The Tribe withdrew their initial request for attorney fees and costs.

ARBITRATION AWARD

1. Claimant Quechan Tribe of the Fort Yuma Indian Reservation's Last Best Offer is ordered to be the Intergovernmental Agreement between the Tribe and Respondent County of Imperial without modification.
2. The administrative filing and case service fees of the American Arbitration Association ("the Association"), totaling \$3,250.00, shall be borne as incurred.
3. The fees of the arbitrator, totaling \$1,600.00, shall be borne as incurred.
4. Each party shall bear their own attorney's fees and costs.

This ARBITRATION AWARD is in full settlement of all claims submitted to this arbitration.



 ARBITRATOR

DATE: December 21, 2007