Indians seeking compensation for lost tribal lands

By Bill McMahoon
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Louisiana's Indian tribes run high-stakes bingo halls on their reservations with no real oversight from state gaming officials.

The tribes run bingo halls under the aegis of federal law that makes Indian land special. Federal law recognizes Indian reservations as sovereign areas where Indians run their own affairs.

The Indians say they are strong legal proof and it has implications beyond bingo and gaming on the reservation.

Some Louisiana tribes have even gone as far as claiming sovereignty in Indian country, a state's authority to levy taxes on tribal lands.

And, Louisiana Indians have filed claims against the state seeking the return of or compensation for lost tribal lands.

The Tunica Biloxi Indians have recently reopened negotiations on a claim they made 10 years ago. They say the tribe once owned five villages in the Mississippi delta, and they want compensation for what was done to us, but they're willing to negotiate.

In a summary of their claims, the Indians say the state has a duty to recognize their tribal lands as wildlife areas, parks and other property not currently in use - that could be deduced to them as compensation for lost tribal lands.

The Indians say they believe that the state is short of funds and that the people living on one-time Indian lands are their friends and neighbors.

But, the Indians say they must be compensated for the wrongs done to us.

Dwayne Broussard, of the attorney general's office, said the Indians contend their ancestors lived on land in Rapides and Avoyelles parishes when Louisiana was purchased from the French in 1803. He said estimates of the size of the claim range from 16,000 to 17,000 acres with a value of about $25 million.

Broussard disagrees with federal requirements that the Indians must first negotiate with the state.

"The state says that's not fair since it was not involved in the original agreement with the Indians," Broussard said. "But the land was purchased in 1803 but did not become a state until 1812."

Tribe chief Earl Barby said he and others recently met with representatives of the governor and attorney general's offices to discuss the claim.

"Not much progress is being made," Barby said. "We're not very pleased with it." Barby served.

Barby charged state government with "political correctness," "thinking that hopefully the issue will pass on to somebody else."

"This will not go away," Barby said. Barby said he wants the claim resolved before a lawsuit.

John Kennedy, special counsel to Gov. Buddy Roemer, said the negotiations are in the discussion stage and added it's not unusual to expect protracted discussions. Such cases have a tendency to take an extraordinary amount of time.

"From the vantage point of the governor's office, the Tunica Biloxi are residents and citizens of the state," Kennedy said. They've made assertions. They've made legal claims. We're not going to sit down and meet and assimilate the facts. That's what we're doing. We're not saying they are valid. We're not saying they're invalid. We're looking at the law.

The state's office also is involved in another Indian sovereignty issue - this one involves the state's sales taxing authority and the Tunica Biloxi Indians.

As described by Howard Elliott, attorney for the state's land office of Indian Affairs, vehicles here is how the sales tax issue arose.

The Department of Public Safety charges sales taxes on vehicles bought by the tribes and it does on any other vehicles purchased from the state. The Department of Revenue and Taxation tells Public Safety how it is to collect sales taxes, and the policy of Revenue and Taxation is that the Indians do not have to pay sales taxes on vehicles obtained by them or others if used exclusively on tribal lands.

But, when vehicles are used on nontribal roads, they are taxed. Public Safety has not found documentation of such protests. Now the Indians are suing to get the prescription lands of Indian Affairs paid the sales tax.

The Tunica Biloxi Indians say they paid such taxes under protest, but Public Safety hasn't found documentation of such protests. Now the Indians are suing to get the prescription lands of Indian Affairs paid the sales tax. The Indians' lawyer's statement declare that they do not have to pay the taxes.

The case currently involves only about $1,000, but it could cost millions, Elliott said. If a court decides that all 400-plus members of the tribe would not have to pay, it would add up to a substantial amount of money. Broussard said, the loss would not be as large if such a ruling would apply only to the 40 or so Indians actually living on the reservation.

And, that's another point at issue: Is the Tunica Biloxi a tribe of Indian land? Broussard said that state government can't tax Indians on reservations, but it can tax a white man who goes to a reservation and tax nonreservation Indians.

The state claims the land where the Tunica Biloxi is not covered by the U.S. Bureau of Indian Affairs as a reservation, and thus is subject to taxation. Broussard said the lands are tribal land that are owned forever.

The state, while conceding that there may be a little jurisdictional dispute, is not willing to pay it has no jurisdiction on land owned by Indians, Broussard said.

Another problem for the Tunica Biloxi, Broussard said, is that other Indians had claimed the same area. "The question is, is the last victor the owner?" Broussard said. "If so, then is it owned by the white man?"