



## News Release

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### **Stockbridge-Munsee Community to Appeal Order Dismissing Ho-Chunk Nation from Lawsuit**

*Judge's decision condones ongoing illegal gaming activity, opens door for reshaping national Indian gaming policy*

**BOWLER, WISCONSIN (October 26, 2017)** The Stockbridge-Munsee today announced that it will appeal the recent ruling dismissing the Ho-Chunk Nation from the lawsuit filed to stop the expansion of illegal gaming at the Ho-Chunk's Wittenberg, Wisconsin, ancillary facility.

"Apparently our mistake was believing the multiple assurances from both the State of Wisconsin and Ho-Chunk that the Wittenberg facility would be no more than 'mini-mart' gaming," said Shannon Holsey, president of the Stockbridge-Munsee Tribal Council. "Yet when we learned in 2016 that the Ho-Chunk were shifting from simply pushing the limits of their purported ancillary facility to completely violating their State compact to build a \$41 million full blown casino resort, we took timely and proper action. Our lawsuit merits and timing are just, and fully permitted under the Indian Gaming Regulatory Act. We intend to vigorously continue pursuing the avenues for justice that are afforded to us."

According to the order delivered on October 25<sup>th</sup>, the ruling judge determined that despite it being reasonable for the Stockbridge-Munsee to pursue its claims, they were time barred from having the merits of the case litigated due to a misapplied six-year Wisconsin statute of limitations, which would have required the Tribe to sue by 2014. The Court's order applied a Wisconsin contracts law six-year statute of limitations to the Indian Gaming Regulatory Act, which contains no statute of limitations for such enforcement action by a state or a tribe. If left unchallenged, this order could limit that State's ability to enforce compacts and possibly the National Indian Gaming Commission's ability as well.

Notably, it wasn't until 2014 (the same year as the statute of limitations bar adopted by the Court) that the Ho-Chunk announced its intentions of expanding its ancillary facility in Wittenberg into something far more than intended and originally constructed as part of its Ho-Chunk Forward Campaign. It wasn't until 2016 when the Ho-Chunk fully disclosed its plans to turn this ancillary gaming facility into a full-blown casino resort, investing over \$41 million to change what was "mini-mart" gaming to over 750 slot machines, a new high-limit gaming area, 10 table games, an 86-room hotel and conference center facility, and an 84-seat restaurant/bar.

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“In this ruling, the judge has essentially said that it is perfectly fine to violate your gaming compact so long as you fly under the radar for six years. After that point, you can do whatever you want, even if it’s in blatant violation of the law,” continued Holsey. “This is outrageous, and should concern every single tribal nation. This ruling, if allowed to stand, has dramatically reshaped the letter and intention of IGRA, permitting illegal gaming so long as you’re patient enough to wait out some arbitrary clock.”

Ho-Chunk’s own actions only accentuate that it was their intent to exploit the system all along. Moments after the October 25 ruling, Ho-Chunk brazenly went on the record saying it intends to expand the number of slot machines at its Wittenberg facility, even though that will mean its non-gaming business is less than half of the size of the gaming floor (12,000 sf of non-gaming space compared to over 25,000 sf of gaming floor space).

Even according to the State’s own interpretation, an ancillary gaming facility is restricted in size. The non-gaming portion of the building(s) must be physically larger than the gaming portion of the building(s). If Ho-Chunk carries out its plans to expand its gaming floor to 822 machines on November 1, 2017, it will not be in compliance with the State’s and Ho-Chunk’s own interpretation of the ancillary facility definition in the Compact. And they proactively acknowledged as such in their court filings.

The State of Wisconsin did not seek dismissal based on statute of limitations as a defense, as the Ho-Chunk did. The Stockbridge-Munsee is calling upon the State to refrain from doing so now, and instead see through its commitment to allow this dispute to be determined on the merits of the case, not ill-applied procedural standards. “The sanctity of tribal gaming in Wisconsin, and arguably the entire country, demands that the State of Wisconsin do the right thing and allow this dispute to be fully litigated,” concluded Holsey. “Time and again, the Ho-Chunk have flaunted their total disregard for the rules that govern tribal gaming in Wisconsin. Allowing this to continue will render State gaming compacts useless, completely destabilize the gaming market and open the door for future gaming violations.”

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