

Judge rejects Rancheria casino challenges

Posted: Saturday, September 26, 2015 11:00 pm
By Harold Kruger hkruger@appealdemocrat.com



A federal judge has rejected legal challenges to the proposed Enterprise Rancheria casino in Yuba County.

U.S. District Judge Troy Nunley sided with the Interior Department and the Bureau of Indian Affairs in their decision to take 40 acres into trust along Forty Mile Road for the Butte Country tribe.

"The court concludes that the (secretary of the Interior) properly determined that the gaming facility would be in the best interest of the tribe," Nunley wrote in a 33-page decision on Wednesday.

BIA "conducted a reasoned evaluation of the relevant information and reached a decision that was not arbitrary and capricious," the judge said.

He granted the government's request for summary judgment, meaning there are no other issues to be decided, and closed the case filed in 2012 by the Thunder Valley and Colusa Casino tribes and others.

Enterprise Rancheria has said it intends to begin construction in November on a 105,750-square-foot Class II casino facility.

Attorneys involved in the case did not respond to an email seeking comment on Friday.

Opponents raised a number of challenges to the federal government's action, saying it had not properly followed the National Environmental Policy Act. Nunley rejected those and others.

"Plaintiffs do not make a showing that additional viable or logical alternatives exist, or that the three other alternative sites were substantially superior," Nunley wrote. "The court notes that an agency is not required to consider speculative possibilities."

The Thunder Valley tribe contended the Yuba County casino would hurt its business.

"The court agrees with the secretary's statement in the record that competition alone is not enough of a detrimental impact to sustain this NEPA challenge," Nunley wrote.

The judge also considered an argument the Enterprise Rancheria casino lacked community support.

Opponents cited the November 2005 advisory election that saw 52.1 percent of Yuba County voters oppose the casino.

"The court concludes that community opposition was taken into account, however the court understands that this was just one factor considered by the secretary and was not dispositive," Nunley wrote. "Although the entirety of the opposition comments may not have been included in the (BIA Record of Decision), even (Thunder Valley) admits that some of the opposition (in addition to the 2005 vote) was mentioned elsewhere in the ROD."

Nunley said he was "satisfied that the secretary took into account the opposition and addressed the opposition in the ROD. Therefore, the secretary did not act arbitrarily or capriciously."