



TFA Monthly Newsletter

November 2025

IN THE NEWS

Something Wicked This Way Comes

By William Newby

The title of this month's newsletter comes from Shakespeare's *Macbeth* wherein the quote signals the pending arrival of evil tidings in the personage of the titular character, Macbeth.

Is Indian Country looking down a dark road toward something wicked coming?

The answer could very well be "yes" and that evil is an assault on the legal foundation of modern Indian Gaming: the Indian Gaming Regulatory Act (IGRA).

Attacks on Tribal sovereignty and the right to game have existed since the passage of IGRA in 1988. Most of those attacks have come from the "usual suspects" such as potential competitors and disgruntled neighbors.

For example, on October 6th, the Supreme Court declined a petition from the former Maverick Gaming requesting the Court review two lower court decisions on their *RunItOnce-Time LLC vs United States* suit. Maverick sought to have gaming compacts between the State of Washington and 29 tribes invalidated claiming that the tribes' exclusive rights to Class III gaming and sports betting were a "discriminatory tribal gaming monopoly"

which violated both the IGRA and the Constitution's equal protection clause. The lower courts disagreed, and the Supreme Court agreed with the lower courts' opinion thereby ending the challenge to tribal sovereignty and IGRA.

Meanwhile, up in Alaska, a small collection of local residents challenged the Native Village of Eklutna's newly opened casino by suing both the Village and the NIGC. One of the assertions by the locals: The Native Village of Eklutna, by inference, *wasn't an Indian Tribe*. The court denied the petition, but that decision is now under appeal.

Both cases are somewhat "typical" examples of the headwinds Tribes face when seeking to establish financial sovereignty via the development and operation of a gaming asset. Whereas the consequences of these legal actions can be significant, they have historically largely been defeated, limiting the impact to a "delay tactic".

IGRA is the bedrock upon which all tribal gaming was built and up until 2025, that bedrock was assumed to be virtually unassailable. Because of that, the primary functional arm

Prediction markets weren't at G2E. Here's why they dominated gaming industry discussions

10/13/2025 – thenevadaindependent.com

Daniel Tucker, influential tribal leader, dies at 73

10/27/2025 – sandiegouniontribune.com

Legislative gridlock on sports betting is costing Oklahoma millions

10/27/2025 – completeigaming.com

AGA survey reveals most Americans are in favor of gambling, as casino visitation surges

10/31/2025 – cdcgaming.com

California Judge Clears Path for AG's DFS Crackdown

10/31/2025 – playusa.com

Indian Gaming Association Announces Leadership Transition Following the Passing of Chairman Ernie Stevens Jr.

11/1/2025 – pechanga.net

When Washington shuts down, Indian Country pays the price

11/1/2025 – tribalbusinessnews.com

(continued from Page 1)

of IGRA, the National Indian Gaming Commission (NIGC) could be relied upon to follow (and sometimes interpret) the rules governing Tribal gaming.

When land was put into trust it was assumed that it would stay that way. Decisions on how to develop that land for the betterment of tribes could be made. Long-term commitments for the financing of those projects could be obtained.

Then something wicked this way came: a series of perplexing and discomforting decision reversals oozed out of the Department of the Interior which “stayed” or overruled land into trust and gaming decisions from the prior Administration.

The first of the several “stays” included the Scotts Valley Band of Pomo Indians proposed gaming site near Vallejo, CA. Following that, the Department of the Interior reversed an opinion which had catalyzed two tribal projects in Alaska. Then, a lawsuit between the Federated Indians Graton Rancheria—supported by the Governor of California—and the Department of the Interior resulted in a September 2025 court order to revoke Koi Nation’s Sonoma, California, land into trust decision.

The fundamental basis for all of these actions is economics: tribes defending their economic catchment area from incursions by another tribe. In the Alaska cases, the resistance is more nuanced with the objection coming from the State of Alaska itself, but the motivation is functionally similar.

In California, the underlying economic tension between tribes is understandable, but by involving both the State of California and/or the new administration in Washingt-

ton in the conversation, the tribes have invited a new player into the game—the government—which may have an agenda which is counter to the long-accepted rule of law established by IGRA.

This may be analogous to letting “the fox into the hen house”: once a government does something sly and gets away with it, what is the likelihood it does that thing again?

If the law long assumed to be the basis for Indian Gaming is now freely questioned, what might the consequences be? Could prior land into trust decisions now be rescinded? Could late term decisions by, say, the Clinton Administration, be re-reviewed in California? On the East Coast? In Washington State?

Back up in Alaska, with Interior’s decision to overturn a prior foundational legal opinion, Deputy Secretary Katharine MacGregor wrote on September 25, 2025 “...any Department action, *including any action by the National Indian Gaming Commission* [emphasis added], taken in reliance on the solicitor’s opinion, should be reevaluated in accordance with this revocation.”

So, two tribes, in *reliance* on what they assumed to be a binding decision out of the NIGC, invested millions of dollars, employed dozens of tribal and non-tribal citizens, injected investment in the local economy and finally saw a way to economic self-sufficiency, only to see that potentially vanish with the flick of a bureaucrat’s pen.

A tribe might say that “this could never happen to us” and it may be correct. But on the other hand, the history of the involvement of the US and State govern-

ments in tribal affairs has hardly been even-handed. The question should be why tribes would willingly seek Government intervention in what might be best described as “intra-Indian Country” or “family business”. Why should tribes involve the Government in these discussions at all?

Moreover, even if the looming assault on IGRA isn’t experienced universally across Indian Country, the possibility remains that it could widely impact integral interests, for example the availability of financing for tribal gaming projects generally. Said one industry source, “With respect to the potential for changes to IGRA and the risk that land in trust decisions could be overturned, we believe it would have a chilling effect on our ability/the lending community’s desire to fund Native American gaming deals.”

Should Indian Country risk weakening the foundation of Indian Gaming, IGRA, by entreaty with the Federal Government and courts on matters that could affect economic viability and Tribal financial stability? There may be circumstances where doing so is the only option, but wouldn’t the better way forward in most cases of disagreement be through inter-Tribal discourse? By doing so, perhaps Tribes can avoid the “unintended consequences” caused by asking the authorities to intervene in Tribe vs Tribe disagreements.

As Benjamin Franklin famously said at the signing of the Declaration of Independence: “We must all hang together, or most assuredly we shall all hang separately.”

As always, we are available to discuss these thoughts and other topics—please reach out to us with questions, thoughts or comments.

TFA

201 Continental Boulevard
Suite 110
El Segundo, CA 90245
tfacp.com

KRISTI JACKSON
CHAIRMAN
310.341.2335
kjackson@tfacp.com

WILLIAM NEWBY
PRESIDENT
310.341.2796
wnewby@tfacp.com

DAVID HOWARD
CEO
310.341.2795
dhoward@tfacp.com

BRAXTON SATO
VICE PRESIDENT
310.341.2339
bsato@tfacp.com

FOLLOW TFA ON:

