

VANDERBILT — Not unlike tennis players involved in a heated match, both sides embroiled in the controversial Bay Mills Indian Community (BMIC) casino, which recently opened in Vanderbilt, continue to lob volleys back and forth.

The action heated up another notch this week when both the Michigan Attorney General's office and the Little Traverse Bay Bands of Odawa Indians which operates a casino in Petoskey, filed lawsuits in federal court to force the closure of the Bay Mills gaming operation which opened Nov. 3 in the former Treetops Resort information center just north of Vanderbilt on Old 27 North.

The lawsuits, filed Tuesday by the Attorney General and Wednesday by the Odawa tribe in the United States District Court — Western Division of Michigan in Grand Rapids, were the result of Bay Mills' refusal to shut down its 38 slot machines at the Vanderbilt casino following a Dec. 16 letter from the Attorney General's office demanding the tribe cease gaming operations there.

Bay Mills Tribal Chairman Jeff Parker responded Wednesday to the news of the two lawsuits in a short, terse news release, defying the Attorney General's order to shut down.

"We're confident in our legal position. If we weren't we wouldn't have opened our Vanderbilt location. We are prepared to defend our position in the Federal District Court of Grand Rapids," Parker communicated via the Wednesday news release.

Since the controversy began following the Nov. 3 opening and subsequent news of a Dec. 1 groundbreaking, which would double the size of its Vanderbilt operation, spokespersons from the BMIC have chosen to communicate to the media solely through brief news releases, opting not to return phone calls to the Herald Times and other media outlets.

Joy Yearout, spokesperson for the Attorney General's office, said Wednesday the lawsuit and impending court action rest on two main legal points: "Indian lands" and the contention the tribe, by opening the Vanderbilt casino, violates the Indian Gaming Regulatory Act (IGRA) and the 1993 gaming compact Bay Mills entered into with the State of Michigan.

Parker has contended from the beginning of the controversial opening of the Vanderbilt casino the land, 46.5 acres the tribe purchased in August from Treetops resort, was paid for with

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Written by Administrator

Thursday, 23 December 2010 20:32 -

“congressionally appropriated funds to acquire qualified Indian lands” and as such should be considered “Indian lands.”

In its eight-page complaint filed in federal court the Attorney General’s office argues against Bay Mills’ claim the Vanderbilt casino occupies “Indian land” maintaining the Vanderbilt casino is not part of the Bay Mills reservation, the only lands, according to the 1993 compact where the tribe is allowed to conduct gaming operations.

According to Yearout, the next step of the lawsuit provides for the BMIC to respond to the three counts outlined in the complaint which call for the “permanent injunction against the tribe’s operation of that casino, requiring its closure.”

Yearout said she was not sure of the timeline involved for Bay Mills to respond but it could be as long as one month.

At that point, Yearout said a status conference would be scheduled to bring the two parties together to see if an agreement could be reached prior to actual court actions at a later date.

A Wednesday news release from Odawa Tribal Chairman Ken Harrington announcing the filing of its federal lawsuit seeking an injunction to close the Bay Mills Vanderbilt casino, stated, in part, “Little Traverse rigorously contests Bay Mills legal argument, concluding that Bay Mills circumvented key provisions of federal law by its unilateral actions, effectively amounting to lawless behavior that should be permanently enjoined.”

In the new release Harrington asserts Bay Mills’ Vanderbilt casino “is only the first of several casinos it intends to open on off-reservation lands located downstate in more lucrative markets.”

As of press time Thursday Bay Mills had not responded via an e-mail news release or by phone to requests for additional information from the Herald Times.

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