

Cattle Congress seeks dismissal of Meskwaki foreclosure action



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WATERLOO | The National Cattle Congress has asked that a foreclosure petition on its properties filed by the Meskwaki tribe of Tama be dismissed.

In a petition filed in Black Hawk County District Court on June 24, NCC attorney Ken Nelson contends NCC has kept all of its agreements with the tribe and has done nothing to warrant the

foreclosure action.

NCC also filed a counterclaim alleging the tribe's "unwarranted and unfounded foreclosure action" caused NCC's proposed sale of the former Waterloo Greyhound Park site to Warren Transport Inc. of Waterloo to be terminated by Warren's owner, Minnesota-based Anderson Trucking Service of St. Cloud.

For that, NCC is seeking unspecified damages from the tribe and asking that NCC be granted clear title to the property.

In a press release in May, tribal leaders said they were unable to come to an agreement after NCC officials proposed selling the site near U.S. Highways 20 and 63 to the trucking company.

Nelson said NCC made a good faith offer of a portion of sale proceeds to the tribe.

Warren Transport President Dick Donnelly said Thursday his company's deal for the dog track site could be resurrected if the "disheartening" situation between NCC and the tribe can be resolved.

"All I want is clear title," Donnelly said. "It's pretty important for what we want to do."

He would like to consolidate company operations at that site and clean up the highly visible location, but is looking at alternative sites in and out of town if the dispute is protracted in the courts.

The tribe holds a lien over the dog track, NCC fairgrounds and Electric Park Ballroom by virtue of its \$9.1 million Chapter 11 bankruptcy bailout of NCC in 1995.

The lien, which Nelson contends is "tantamount to a restrictive covenant on the land," allowed the tribe to foreclose on NCC property if NCC ever tried to expand gaming at the track or fairgrounds without tribal consent. Previously, NCC had tried to add slot machines at the dog

track, but Black Hawk County voters defeated that twice in 1994.

In NCC's counterclaim, Nelson writes, "NCC has not contacted or negotiated with any third party in connection with racing and/or gaming." It also states Anderson/Warren "had no intentions to conduct racing or gaming on the premises."

The tribe also contended in its foreclosure action NCC defaulted on the tribe's lien by failing to do all things necessary to keep its racing and gaming license at the dog track. Nelson said NCC did not fail in that regard, attempting unsuccessfully several times individually and in cooperation with the tribe to restore gaming with state regulators and in the courts.

Live dog racing ceased at the track in early 1994. NCC's request to resume live racing was rejected by The Iowa Racing and Gaming Commission that November.

In May 1996, the state commission decided not to renew NCC's pari-mutuel license for the dog track. In July, the NCC board, in consultation with Meskwaki officials, decided not to fight the decision, effectively ending gaming at the site. Live simulcast racing at the track, the last gaming operation there, ceased that July 13.

Isaac Roberts, then chairman of the Meskwaki Tribal Council, said in 1996 that tribal officials would not take action against NCC's decision not to appeal. But he noted there was a group within the tribe critical of the NCC bailout and did not know if NCC's decision to end its gaming operation would satisfy that group's concerns.

In 2004, NCC and the tribe sought a casino license for the closed dog track. In 2005, the Racing and Gaming Commission turned down that application and one for a proposed downtown site but approved a license for the Isle Casino Hotel Waterloo.

NCC filed suit over that decision, contending the license NCC held in the 1980s and 1990s should be renewed. District and appellate courts ruled against NCC.

Tribal legal counsel has asked for additional time to review the NCC filings. A call to the tribe's attorney at tribal offices was not returned Thursday.