

Acquiring Farmer Jacks could make Kroger No. 1

BY SHEENA HARRISON
CRAIN'S DETROIT BUSINESS

Farmer Jack's loss could put The Kroger Co. in first place for metro Detroit market share if the Cincinnati-based grocer picks up the bulk of the Farmer Jack stores currently for sale.

Kroger is rumored to be negotiating to buy about 20 of the 66 stores that The Great Atlantic & Pacific Tea Co. Inc. has put up for sale, according to Jane Shallal, president of the Farmington Hills-based Associated Food and Petroleum Dealers of Michigan.

Kroger controlled about 23.1 percent of the metro Detroit market, according to the February issue of *Market Scope*, a semiannual report released by Westport, Conn.-based Trade Dimensions International Inc.

The chain was a close second to Walker-based Meijer Inc., which had 24.3 percent of the local market in the report.

This wouldn't be the first time that Kroger has had more market share than Meijer.

Farmer Jack was in third place with 15.9 percent market share.

Market Scope compiles its numbers from sales data from stores, supermarkets and wholesale companies. It uses the federal government's definition of metropolitan areas to define markets.

Picking up 20 of the Farmer Jack stores could be enough to put Kroger over the top in the local grocery turf battle, said David Livingston, managing partner of Pewaukee, Wis.-based DJL Research, a supermarket research firm.

"It would help make them the market-share leader," Livingston said. This wouldn't be the first time that Kroger has had more market share than Meijer. According to a 2005 *Market Scope* report, Farmer Jack and A&P's Food Basics brand, which replaced some Farmer Jack stores in 2004, had the bulk of local market share at 22.6 percent.

Kroger was in second place with 21.9 percent of the market share, and Meijer placed third with 20.2 percent of the market.

Montvale, N.J.-based A&P confirmed in April it was going to sell the Farmer Jack chain because of "unsatisfactory operating trends."

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State wins first round in casino revenue fight

Court says tribes must pay into strategic fund

BY AMY LANE
CAPITOL CORRESPONDENT

LANSING — Michigan has won an initial court ruling that could send an estimated \$40 million into state economic-development coffers and secure millions more in tribal casino revenue.

The ruling in a two-year-old federal lawsuit, if upheld, could restore a key source of money for the Michigan Economic Development Corp. and enable the state to beef up business-attraction efforts that shrank during the dispute with two American Indian tribes over payments to the state.

The action comes at a critical time: The casino-revenue pot of money that pays for a variety of MEDC activities and the salaries and benefits of 54 of the MEDC's 190 employees — non-

THE REVENUE DISPUTE

For nearly three years, the state and two American Indian tribes have been in dispute over a requirement that the tribes share casino revenue with the state.

At stake: Millions of dollars that support state economic-development efforts.

At issue: The Bureau of State Lottery's keno game. The tribes say the game, launched in October 2003 and played in bars and restaurants, violates their gambling exclusivity under 1998 compacts and thus ended the requirement they share revenue with the state.

At present: The Michigan Economic Development Corp. has won a U.S. District Court ruling that the tribes have breached their obligation to pay the state. The tribes plan to appeal to the 6th U.S. Circuit Court of Appeals.

civil service executives including President and CEO Jim Epolito — is expected to run out sometime in 2008 unless the MEDC finds an alter-

native funding source.

"We're at a crossroads here," Epolito said. "It's a lifeblood decision. We're either going to be fueled by casino revenue to really return us to national prominence as an economic-development operation, or we're going to continue to be challenged because of the lack of state funds and our ability to attract and retain businesses."

But the legal battle isn't over. Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians, the tribes the MEDC sued after they stopped sending casino revenue to the Michigan Strategic Fund in 2004, plan to appeal the ruling to the 6th U.S. Circuit Court of Appeals in Cincinnati.

In a statement, the Little River Band expressed disappointment with the ruling but a tribal spokesman declined to comment further. *Crain's* was unable to obtain comment from Little Traverse Bay Bands tribal Chairman Frank

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Shallal

Epolito



ECONOMIC RUNWAY

A University of Michigan-Dearborn study released today said that Willow Run Airport has produced:

\$200 million
in economic activity

2,000
jobs

30 million pounds
in additional cargo handled over the same time last year

Willow Run means \$200M to state

New \$6.8M taxiway expected to boost airport's impact

BY ANDREW DIETDERICH
CRAIN'S DETROIT BUSINESS

Willow Run Airport was responsible for \$200 million in economic activity and more than 2,000 jobs in Michigan in 2006, according to a study to be released by the University of Michigan-Dearborn today.

And the airport isn't slowing down, helping spur growth in western Wayne County and Washtenaw County.

The airport is up about 30 million pounds of cargo compared with the same point last year, when it handled about 400 million pounds.

And three weeks ago, work began on a \$6.8 million taxiway that will make just-in-time deliveries faster by making the airport operate more efficiently. Currently, planes taxi on runways, delaying landings and takeoffs.

As activity increases, so too will the airport's effect on Michigan's economy, said Lee Redding, assistant

professor of business economics at UM-Dearborn.

That's because the economic impact isn't just from increased revenue at the airport but indirect business activity, Redding said. For example, pilots need to stay in area hotels and eat at local restaurants.

"We take all of those factors and are able to come up with an estimate," Redding said.

The study was conducted by iLabs and UM-Dearborn School of Management's Center for Innovation Research.

In Wayne County, the airport was responsible for more than \$100 million in economic activity with profits of \$22 million in 2006. Statewide, the report estimates the airport generated about \$200 million in the form of revenue, income and jobs.

Sean Brosnan, director of the airport, said changes in the way companies do business is helping revenue.

"Companies are keeping their sup-

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MEDC: State wins first round in casino revenue fight

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Ettawageshik, as well as the tribes' attorneys in the matter, **Kanji & Katzen P.L.L.C.** in Ann Arbor.

In the past, the tribes said the parties have "a good-faith dispute" and they waived their immunity to allow the state to sue them and resolve the matter.

The state sued the tribes in June 2005 in **U.S. District Court for the Western District of Michigan**, asserting that the tribes violated state-tribal gambling compacts by withholding casino revenue due the state.

At issue in the dispute is the **Bureau of State Lottery's** keno game. The tribes had said the Club Keno game, launched in October 2003 and played in bars and restaurants statewide, violates their gambling exclusivity under 1998 compacts and thus ended the requirement they share revenue with the state.

The tribes said the compacts require their 8 percent revenue-sharing payments only as long as no other entity operates electronic games of chance or commercial casino games, other than Detroit's three licensed casinos and tribes operating casinos under federal Indian Gaming Regulatory Act authority. They contended Club Keno constitutes a commercial casino game.

But the state said Club Keno is neither an electronic game of chance as defined under the compacts nor a commercial casino game that, within the compacts' meaning, could nullify revenue sharing. The state contended the Club Keno game is just an expansion of a lottery keno game that existed since 1990.

In an April 27 ruling, U.S. District Judge Wendell Miles said "the language of the compacts is unambiguous" and "the state's operation of the Michigan lottery, including the Club Keno game or any other game authorized by the lottery bu-

reau, does not terminate the tribes' payment obligations under the compacts."

Miles granted the state's motion for a judgment that the tribes "are in breach of their obligation to make payments under the exclusivity provisions of their respective compacts with the state."

The court still needs to enter a final judgment. Among matters being resolved is the amount of money the tribes have withheld and placed in segregated accounts, and interest due.

Kevin Moody, principal in the Lansing office of law firm **Miller, Canfield, Paddock and Stone plc**, which is representing the MEDC, said that at the circuit court, the MEDC hopes to expedite the briefing schedule and "convince the 6th Circuit that these are significant issues for the MEDC" that "need to be resolved as quickly as possible."

Since 1994, tribal casino revenue has fortified state economic development operations and provided money not subject to appropriation.

Over the years, the casino revenue's uses have included career scholarships, technical-training centers, tax-free renaissance zones, a grant for **Comerica Park** in Detroit, downtown redevelopments, the former **Technology Tri-Corridor** and sponsorship for marquee sporting events like the 2004 **Ryder Cup** and the 2006 **Super Bowl XL**.

Under an initial set of revenue-sharing agreements with seven tribes, tribal payments to the Strategic Fund peaked at more than \$45 million before the 1999 opening of Detroit's first casino ended those revenue-sharing obligations.

According to the MEDC, the separate revenue stream from the Little River Band and the Little Traverse Bay Bands reached about \$12 million annually before the payments halted. Now, the state only receives revenue from the

Keweenaw Bay Indian Community, at about \$2.5 million annually.

New casinos planned by other Michigan tribes are expected to net the state additional revenue. That includes an eventual \$20 million annually expected from a **Pokagon Band of Potawatomi Indians** casino scheduled to open in August in southwest Michigan's New Buffalo Township, and some \$10 million from a casino planned by the **Nottawaseppi Huron Band of Potawatomi** in Battle Creek.

But so far, the dispute over Club Keno has caused the MEDC to curtail marketing, business attraction and other operations.

The MEDC's international offices have closed, business-attraction marketing halted and only recently resumed with the one-time influx of money from the **21st Century Jobs Fund**. In addition, the state's ability to fly around the nation and meet with businesses considering Michigan or Midwest investment has been replaced by trade-show attendance and asking business prospects "to come to us," Epolito said.

"I think really the whole national-attraction program has been really eliminated," Epolito said. "If you want to be proactive in the attraction area ... you have to go out and meet with businesses and site-selection people who are considering Michigan, or who have Michigan somewhat on their radar."

The state has independent contractors it uses for outreach in Japan and Europe and has one person staffing an office in China, but in large part, "the national and international attraction efforts have just had to stop," Epolito said.

"We continue on, but in a very inhibited way,"

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Kroger: Could become No. 1

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A spokesman for the company said then that A&P hoped to sell Farmer Jack in one piece, but is now in negotiations with "several buyers" because no one has been willing or able to buy the chain intact.

Farmer Jack employees received word last week that A&P has sold 45 of its 66 locations and plans to close the remaining 21 by July 7, according to the **United Food & Commercial Workers Local 876** in Madison Heights.

Other rumored buyers for Farmer Jack stores include Grand Rapids-based **Spartan Stores Inc.** and Southfield-based **Hiller's Markets**.

Dale Hollandsworth, manager of integrated communications for Kroger's Great Lakes region, declined to comment on a possible acquisition last week.

Spartan Stores also would not confirm last week whether any of its affiliates have agreed to buy Farmer Jack stores.

"If some of the Farmer Jack stores are purchased by any of our independent retailers, it is possible that Spartan could benefit from additional distribution sales," said Jeanne Norcross, Spartan's vice president of corporate affairs, in a statement to *Crain's*.

A&P also declined comment, citing confidentiality agreements with potential store buyers.

"As of this moment, we have no definitive sale agreements for any stores signed as of yet," said Richard De Santa, A&P's senior

communications director.

Hiller's CEO James Hiller was out of the country last week and could not be reached for comment.

Local grocery insiders say the pending sale of Farmer Jack stores also presents an opportunity for independent grocers, but likely will mean even fewer options for shoppers in Detroit and inner-ring suburbs.

Shallal said some members of the Associated Food and Petroleum Dealers are in the late stages of negotiations to buy between 10 and 15 Farmer Jack stores.

The Farmington Hills-based trade group represents about 3,900 grocery stores in Michigan and Ohio, most of which are independently owned.

Shallal said the Farmer Jack sale has provided an opportunity for independent grocers to build their businesses, which often have had a long history in the community.

"These operators are sophisticated operators," Shallal said. "They take a lot of pride in how they present their service and products to the community."

Shallal said independents that pick up Farmer Jack stores will be better able to cater to local markets than Farmer Jack since the company's corporate leadership was based in New Jersey.

"The problem with Farmer Jack is that because of the way it was structured, it couldn't operate on an independent level and

serve the needs of its respective communities," Shallal said.

Still, some communities stand to lose out in the Farmer Jack sale, said restaurant and grocery consultant Kenneth Dalto of Farmington Hills-based **Kenneth J. Dalto & Associates**.

"It's going to mean less stores and it's going to be in markets that are already underserved," Dalto said.

While A&P hasn't announced which Farmer Jack stores are likely to close, Dalto predicts they will be in Detroit and inner-ring suburbs such as Southfield, Hazel Park and Warren. He said that's because the rumored Farmer Jack buyers tend to focus on growing suburban markets.

"Hiller's and Spartan are suburban, more upscale markets, and I just don't think they want those locations," Dalto said.

A&P has said it will continue to try to sell locations that aren't initially sold to grocery operators. Dalto said those locations could eventually make way for drug store chains such as **CVS** or **Walgreens**, or big-box stores such as **Lowe's** or **Home Depot**.

But he believes the older Farmer Jack locations could take "several years" to fill, which will likely have a negative impact on retailers located near them.

"It's a cascading effect," Dalto said.

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Airport: Beneficial

From Page 3

ply chain a little more taut," Brosnan said. "That means more just-in-time orders. And then some companies like **General Motors** are doing a little better."

Willow Run handles more than \$4 billion worth of cargo annually, according to the UM-Dearborn study. About 75 percent of the planes coming and going from the airport handle cargo. Major customers include Ypsilanti-based **Murray Air Inc.** and Dallas-based **Ameristar Jet Charter Inc.**

About 250 planes take off and land at Willow Run daily, Brosnan said.

In addition, about 210,000 passengers arrived at the airport via charter, corporate and private aircraft in 2006. Arrivals included passengers for companies such as Milwaukee, Wis.-based **Johnson Controls Inc.**, Van Buren Township-based **Visteon Corp.** and other large companies in western Wayne County and Washtenaw County.

Willow Run is managed by the **Wayne County Airport Authority** and is seven miles west of **Detroit Metropolitan Airport** on 2,600 acres.

Preston Murray, president and COO of Murray Air, said his company saves time and money using Willow Run. He said the cost at Willow Run is two to three times cheaper than at Metro.

"At Metro (Airport) you could be No. 25 in line," he said. "... At Willow Run, you're No. 1 or 2."

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