



February 18, 2011

Via E-mail, and U.S. Mail

Christine M. Masse, P.C.
Miller Nash LLP
4400 Two Union Square
601 Union Street
Seattle, WA 98101-2352
E-mail: Christine.masse@millernash.com

Re: Review of financing documents for the Kalispel Tribe of Indians

Dear Ms. Masse:

This letter responds to your January 21, 2011 request on behalf of the Kalispel Tribe of Indians ("Tribe") for the National Indian Gaming Commission's ("NIGC's") Office of General Counsel to review the Tribe's financing documents with Bank of America, National Association. Specifically, you have asked for my opinion whether the documents are management contracts requiring the NIGC Chairwoman's approval under the Indian Gaming Regulatory Act ("IGRA"). You also asked for my opinion whether the financing documents violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submissions (collectively, "the Financing Documents") which were represented to be in substantially final form:

- Credit Agreement, unexecuted but dated [], 2011, and marked "W02-WEST:1CFL1/403169179.10" (Credit Agreement);
- Security Agreement, unexecuted but dated [], 2011, and marked "W02-WEST:1SHN1/403220972.3" (Security Agreement);
- Intercreditor Agreement, unexecuted but dated [], 2011, and marked "W02-WEST:1SHN1/403221436.6" (Intercreditor Agreement);
- Exhibit J – Term Note, unexecuted but dated [], 2011, and marked "W02-WEST:1ECK1/403226594.2";
- Exhibit H – Revolving Note, unexecuted but dated [], 2011, and marked "W02-WEST:1ECK1/403226553.2";
- Executed Fee Letter dated January 12, 2011 (Fee Letter);

Christine M. Masse, P.C.

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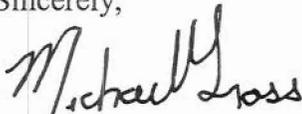
- Springing Depository Waterfall Agreement, unexecuted but dated [], 2011, and marked "W02-WEST:1SHN1/403224099.4" (Springing Depository Waterfall Agreement);
- Other Deposit Accounts Control Agreement, unexecuted, and marked DACA-STD-ARAN (Revised 03-15-10);
- Waterfall Account Control Agreement, unexecuted, and marked DACA-STD-ARI (Revised 03-15-10); and
- Collection Account Control Agreement, unexecuted, and marked DACA-STD-ARI (Revised 03-15-10).

The Financing Documents submitted by the Tribe contain terms similar to other agreements the Office of General Counsel has already reviewed and analyzed. *See* www.nigc.gov/Reading_Room/Management_Review_Letters.aspx. Applying the same analysis here, it is my opinion that the Financing Documents submitted by the Tribe are not management contracts and do not require the approval of the Chairwoman. It is also my opinion that they do not violate IGRA's sole proprietary interest requirement. I understand that the drafts are represented to be in substantially final form, but if the Financing Documents change in any material way prior to closing, this opinion shall not apply.

I anticipate that this letter will be the subject of Freedom of Information Act ("FOIA") requests. Since we believe that some of the information in this letter may fall within FOIA exemption 4(c), which applies to confidential and proprietary information the release of which could cause substantial harm, I ask that you provide me with your views regarding release within ten days.

I am also sending a copy of the submitted Financing Documents to the Department of the Interior Office of Indian Gaming for review under 25 U.S.C. § 81. If you have any questions, please contact NIGC Staff Attorney Dorinda Hanrahan at (202) 632-7003.

Sincerely,



Michael Gross
Associate General Counsel, General Law
(Acting General Counsel)

cc: Paula Hart, Director
Office of Indian Gaming
(via US Mail w/ incoming)