February 19, 2009

Michael L. Roy
Hobbs, Straus, Dean & Walker
2120 L Street, NW, Suite 700
Washington, D.C. 20037

Jerome A. Miranowski
Faegre & Benson
90 South 7th Street, Suite 220
Minneapolis, MN 55402

RE: Request for review of contracts between the Three Affiliated Tribes and Lake Sakakawea and Associates LLC

Dear Mr. Roy and Mr. Miranowski:

Thank you both for the timely submissions you provided regarding the relationship between the Three Affiliated Tribes of the Fort Berthold Reservation (Tribe) and Lake Sakakawea & Associates LLC. I have carefully considered your arguments and documentation and am not convinced that additional substantive review by the National Indian Gaming Commission (NIGC) is appropriate at this time.

The NIGC's Office of General Counsel encourages parties to submit contracts for a voluntary advisory opinion before they are implemented. In this case, the Tribe received two initial reviews of the Participating Lease in which both I and Chairman Hogen, then acting as the Associate Solicitor, expressed serious concerns. The Tribe chose to continue with the project and now argues that subsequent agreements, which were never submitted, have changed the nature of the Participating Lease so significantly that the entire transaction now requires additional NIGC review. The Tribe asks us to find that the collective agreements are void as an unapproved management contract or a violation of the sole proprietary interest requirement of IGRA. At this point in time, I remain unconvinced that I should provide another advisory opinion on this matter.

I note that the parties are entering arbitration wherein they have the opportunity to reach a mutually acceptable resolution to this dispute, and wish them every success in that endeavor.

If you have additional questions, please contact attorney Jennifer Ward at 202-632-7003.

Sincerely,

Penny J. Coleman
General Counsel (Acting)