United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

TAKE PRIDE IN AMERICA

JUN 24 1992

Honorable Caleb Shields
Chairman, Assiniboine and Sioux Tribes
of the Fort Peck Reservation
P.O. Box 1027
Poplar, Montana 59255

Dear Chairman Shields:

On May 5, 1992, we received the tribal-state compact, dated April 6, 1992, between the Assiniboine and Sioux Tribes of the Fort Peck Reservation and the State of Montana, accompanied by Tribal Resolution Number 607-92-3 authorizing the tribal chairman to enter into the compact. Pursuant to my delegated authority and Section 11 of the Indian Gaming Regulatory Act (IGRA), (P.L. 100-497; 25 U.S.C. 2710 et seq.) we approve the compact.

The compact shall take effect when notice of our approval, pursuant to Section 11(d)(3)(B) of the IGRA, is published in the FEDERAL REGISTER.

For your information, Section 11(d) of the IGRA requires the Chairman of the Commission to approve tribal ordinances authorizing Class III gaming. The Commission does not yet have final regulations governing such approvals. When those regulations are issued, you must submit the tribal ordinance to the Commission.

We wish the Tribe and the State success in this economic endeavor.

Sincerely,

Ron Eden

Acting Assistant Secretary - Indian Affairs

Enclosure

Similar letter to: Honorable Stan Stephens
Governor of Montana
Capitol Station
Helena, Montana 59620-0801

cc: Billings Area Director with copy of approved compact
Fort Peck Agency Superintendent with copy of approved compact
National Indian Gaming Commission with copy of approved compact
Penny Coleman, SOL
Twin Cities Field Solicitor
Montana United States Attorney

DEPARTMENT OF THE INTERIOR

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved a Tribal-State Gaming Compact entitled an Agreement between the Assiniboine and Sioux Tribes of the Fort Peck Reservation and the State of Montana concerning Video Keno, Poker and Bingo Games, Simulcast Racing and Other Class III Gaming executed on April 6, 1992.

DATES: July 1, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 "C" Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ronal Eden, Bureau of Indian Affairs, Washington , DC 20240, (202) 208–3463.

Dated: June 24, 1992.

Ronal Eden,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92–15356 Filed 6–30–92 8:45 am]

BILLING CODE 4310–02–M

AGREEMENT BETWEEN THE ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION AND THE STATE OF MONTANA CONCERNING VIDEO KENO, POKER and BINGO GAMES, SIMULCAST RACING and OTHER CLASS III GAMING

I. AUTHORITY

This Agreement is made by and between the Assiniboine and Sioux Tribes of the Fort Peck Reservation and the State of Montana, pursuant to Public Law 100-497, the Indian Gaming Regulatory Act (IGRA). The Tribes are authorized to enter into this Agreement by Resolution No. 607-92-3 enacted by their Tribal Executive Board on March 9, 1992. The State is authorized to enter into this Agreement by Section 11(d)(3)(B) of the IGRA and the provisions of the State-Tribal Cooperative Agreements Act (Section 18-11-101 et seq., MCA).

II. PURPOSE

The purpose of this Agreement is to define the respective jurisdictions of the Tribes and the State to license, regulate, prohibit and operate gambling machines and simulcast racing on the Fort Peck Reservation, with respect to Class III gaming as defined in IGRA, and to engage in other Class III gaming as defined in IGRA as such types of gaming may from time to time hereafter become permissible under state law.

III. DEFINITIONS

A. "BINGO MACHINE". The term "BINGO MACHINE" means an electronic video gambling machine that, upon insertion of cash, is available to play bingo as provided in this agreement. The machine utilizes a video display and microprocessor(s) in which, by chance, the player may receive credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens or anything else of value.

B. "DRAW POKER MACHINE". The term "DRAW POKER MACHINE" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker as provided in this agreement. The machine utilizes a video display and microprocessor(s) in which, by the skill of the player, by chance, or both, the player may receive credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

C. "INDIAN". The term "INDIAN" means any person who would be subject to the jurisdiction of the United States under section 1153, Title 18, United States Code, if that person were to commit any offense listed in that section in Indian country to which that section applies.

D. "KENO MACHINE". The term "KENO MACHINE" means an electronic video gambling machine that, upon insertion of cash, is available to play keno as provided in this agreement. The machine utilizes a video display and microprocessor(s) in which, by chance, the player may receive credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

E. "MACHINE" OR "GAMBLING MACHINE". The term "MACHINE" OR "GAMBLING MACHINE" means any bingo machine, draw poker machine or keno machine.

F. "NON-INDIAN". The term "NON-INDIAN" means any person not an Indian.

G. "OPERATOR". The term "OPERATOR" means a person who purchases, receives or acquires, by lease or otherwise, and operates or controls for use in public a gambling device or gambling enterprise.

H. "PERSON". The term "PERSON" means any individual, corporation, partnership, joint venture, sole proprietorship, or governmental entity.

I. "PREMISES". The term "PREMISES" means a structure or facility that is clearly defined by permanently installed walls that extend from floor to ceiling, and that has a public external entrance leading to a street or other area, that is not shared with another premises. If the premises share a common internal wall with another premises licensed to offer gaming, the common wall must be permanently installed, opaque, and extend from floor to ceiling and may not contain an internal entrance through which public access is allowed.

J. "REGULATE". The term "REGULATE" means the power to control through statute, ordinance, administrative rule, guideline or administrative procedure and to impose taxes, fees, assessments and penalties.

K. "RESERVATION". The term "RESERVATION" means the Fort Peck Indian Reservation as established in the Agreement of December 28 and December 31, 1886, and confirmed by the Act of May 1, 1888, 25 Stat. 113.

L. "SIMULCAST". The term SIMULCAST" means a live broadcast of an actual horserace at the time it is run. The term includes races of local or national prominence.

M. "SIMULCAST FACILITY". The term "SIMULCAST FACILITY" means a facility at which horseraces are simulcast and wagering on the outcome is permitted under the parimutuel system.

N. "STATE". The term "STATE" means the State of Montana or any agency thereof.

O. "TRIBES". The term "TRIBES" means the Assiniboine and Sioux Tribes, any agency, organization, or subdivision of those tribes, or any corporate entity in which such tribes are the sole owners.

IV. JURISDICTION OF THE TRIBES AND STATE

A. The Tribes shall have jurisdiction, including criminal jurisdiction, exclusive of the State and which may be concurrent with any jurisdiction of the United States, to regulate gaming on the Reservation by the Tribes or Indians.

B. The State shall have jurisdiction, including criminal jurisdiction, exclusive of the Tribes and which may be concurrent with any jurisdiction of the United States, to regulate gaming on the Reservation by all operators other than those regulated in Section A of Article IV.

C. Pursuant to the Tribe's Code of Justice, Title III, Section 415 and the IGRA, no Indian is permitted to have an ownership interest in any gaming operation on the Reservation. If the Tribes modify this provision, it shall notify the State and negotiate in good faith to amend this agreement. Whenever an interest in any gambling license or permit is owned in whole or in part by a non-Indian, the State of Montana shall regulate those gambling activities.

V. CONDITIONS OF TRIBAL GAMES

A. The Tribes shall comply with the following conditions for all tribal gaming:

1. Persons under 18 years of age shall not participate in gaming.

2. All gaming authorized under Section A of Article IV shall be conducted by the Tribes directly or pursuant to a management contract in accordance with section 11(d)(9) of the IGRA.

3. Prizes shall be in tangible personal property, free games, credits or cash.

4. A person who is not physically present on the premises where the game is actually conducted shall not be allowed to participate in the game.

5. The consideration paid for the chance to play shall be strictly cash. Every participant must present the money with which he intends to play the game at the time the game is played. No check, credit card, note, IOU, or other evidence of indebtedness shall be offered or accepted as part of the price of participation in such game or as payment of a debt incurred therein.

B. All bingo, draw poker, and keno machines licensed by the Tribes shall also comply with the following conditions:

1. No prize may exceed the value of $1000 for each individual award.

2. No more than 100 machines shall be avabilable for play in any of the Tribes' premises, and no more than 20 machines shall be available for play in any other premises.

3. Draw poker, bingo and keno machines shall meet the requirements and specifications contained in Appendix A attached hereto.

4. The expected payback value of one credit played shall be at least 80% of the value of a credit.

C. All simulcast racing operated by the Tribes shall also:

1. be with a network approved to operate within Montana; and

2. not pay any state and local tax assessment but shall pay other standard fees charged by the network.

VI. TRIBES MAY CONTRACT WITH STATE

The Tribes may contract with the State to certify and inspect machines by paying a fee for each machine which does not exceed the fee charged other entities for such inspections. State officials acting in this capacity shall act as subcontractors of the Tribes, not officials of the State.

VII. DEFAULT AND TERMINATION

A. Default by Tribes. In the event of substantial and continuing failure by the Tribes in the performance of its obligations under this Agreement, the State shall have the right, at its option, to terminate this Agreement, provided that the State shall have given the Tribes at least ninety (90) days written notice of such default and the Tribes shall have failed to cure such default within ninety (90) days after such written notice.

B. Default by State. In the event of substantial and continuing failure by the State in the performance of its obligations under this Agreement, the Tribes shall have the right, at its option, to terminate this Agreement, provided that the Tribes shall have given the State at least ninety (90) days written notice of such default and the State shall have failed to cure such default within ninety (90) days after such written notice.

C. Voluntary Termination. The parties may jointly terminate this Agreement by written instrument signed by both parties. The instrument must be executed one year prior to the effective date of termination.

D. Continuing Obligation to Bargain. Upon default or voluntary termination of this Agreement, the State will negotiate in good faith with the Tribes over the terms and conditions of a subsequent agreement upon receipt of a request pursuant to section 11(d) of the IGRA.

VIII. GENERAL TERMS

A. Effective date and term. This Agreement shall be effective upon execution, and shall continue in effect for a period of 10 years unless earlier terminated in accordance with Article VII. Before expiration of this Agreement or upon its termination, the parties may agree to the renewal of the Agreement for a term agreed upon by the parties.

B. Amendments. This Agreement may be amended only with the consent of both parties and only by written instrument signed by both parties. If the IGRA or State law is amended in any way affecting the terms of this Agreement, the parties agree to negotiate in good faith to amend this Agreement so as to achieve the objectives provided for and to ensure compliance with all applicable law.

C. Annual Review. The parties shall meet to review this Agreement and discuss possible changes at least once every year for the three years following the date on which the Agreement is signed, and thereafter at least once following each regular session of the Montana legislature.

D. Reservation of Rights Under the IGRA. The State and Tribes agree that by entering into this Agreement, the Tribes shall not be deemed to have waived its right to initiate and pursue the procedure provided by section 11(d)(7) of the IGRA with respect to the State's refusal to enter into an agreement on other forms of Class III gaming, and neither the State nor the Tribes shall be deemed to have waived any rights, arguments or defenses applicable to such a procedure.

E. Negative declaration. This Agreement has been entered into to satisfy the requirements of the IGRA. It is not intended to reflect or be viewed as reflecting in any other context either party's position with respect to the jurisdictional authority of the other. Nothing in this Agreement or in any conduct undertaken pursuant thereto shall be deemed as enlarging or diminishing the jurisdictional authority of either party except to the extent necessary to implement and effectuate the Agreement's terms. Neither this Agreement nor conduct pursuant thereto shall be offered as evidence, otherwise referred to in any present or future litigation unrelated to the subject matter of the Agreement, or used to further either party's equitable or legal position in any litigation.

F. Expansion of Class III gaming. If any forms of gaming classified as class III gaming pursuant to the IGRA are authorized by the State of Montana after the date of this Agreement, the State will notify the Tribes of the change. The Tribes will then notify the State if it desires to amend this Agreement to authorize the additional form of gaming on the Reservation. Upon such notice, the parties shall negotiate over amendments to this Agreement to provide for such gaming by the Tribes upon the Reservation pursuant to and in conformity with the IGRA.

G. Severability. Each provision, section and subsection of this Agreement shall stand separate and independent of every other provision, section, or subsection. In the event that a court of competent jurisdiction shall find any provision, section, or subsection of this Agreement to be invalid, the remaining sections and subsections of the Agreement shall remain in full force and effect.

H. Notices. All notices and other communications required to be given hereunder by the Tribes and the State shall be deemed to have been duly given when delivered in person or posted by United States certified mail, return receipt requested, with postage prepaid, addressed as follows:

(i) If to the Tribes:

Chairman
Fort Peck Tribal Executive Board
Post Office Box 1027
Poplar,. Montana 59255

(ii) If to the State:

Governor of the State of Montana
Capitol Station
Helena, Montana 59620-0801

Attorney General of the State of Montana
215 North Sanders
Helena, Montana 59620-1401

or to such other address or addresses as either the Tribes or the State may from time to time designate in writing.

DATED this 6th day of April, 1992.

FORT PECK
ASSINIBOINE AND SIOUX TRIBES

Caleb Shields
Chairman

STATE OF MONTANA

Stan Stephens
Governor

Marc Racicot
Attorney General

BUREAU OF INDIAN AFFAIRS

Assistant Secretary - Indian Affairs

6/24/92
Date