United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

AUG 07 1998

Honorable Donald Moore, Sr.
Tribal Chairman, Bad River Band of
Lake Superior Chippewa Indians
P.O. Box 39
Odanah, Wisconsin 54861

Dear Chairman Moore:

On June 26, 1998, we received the Amendments to the Bad River Band of Lake Superior Chippewa Indians (Tribe) and the State of Wisconsin (State) Gaming Compact of 1991 dated June 11, 1998. We have completed our review of these Amendments and conclude that they do not violate the Indian Gaming Regulatory Act of 1988 (IGRA), Federal law, or our trust responsibility. Therefore, pursuant to Section 11(d)(8)(A) of IGRA, 25 U.S.C. § 2710(d)(8)(A) and delegated authority in 209 DM 8.1, we approve the Amendments. The Amendments shall take effect when the notice of our approval, pursuant to Section 11 (d)(3)(B) of IGRA, 25 U.S.C. § 2710(d)(3)(B), is published in the FEDERAL REGISTER.

We note that the Amendments (Section XXXII of the Compact) memorialize that the Tribe and State agree to discuss modification of the Compact should the State enact a law which purports to impact a tax, fee, assessment or other charge directly on the Tribe's Class III gaming revenues, or a tax on winnings generated at a Class III gaming facility. Our approval of these Amendments should not be construed as, and is not, authorization for the State to impose such taxes, fees, assessments or charges.

We wish the Tribe and the State success in their economic venture.

Sincerely,

/s/ Kevin Gover

Assistant Secretary - Indian Affairs

Enclosure

Identical Letter Sent to: Honorable Tommy G. Thompson
Governor of Wisconsin
Madison, Wisconsin 53707

cc: Minneapolis Area Director w/copy of approved Amendment
Supt., Great Lakes Agency w/copy of approved Amendment
National Indian Gaming Commission w/copy of approved Amendment
Field Solicitor w/copy of approved Amendment
United States Attorney w/copy of approved Amendment

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendments to approved Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, 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 the Amendments to the Bad River Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact of 1991, which were executed on June 11, 1998.

DATES: This action is effective August 21, 1998.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC. 20240, (202) 219–4068.

Dated: August 7, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–22493 Filed 8–20–98; 8:45 am]

BILLING CODE 4310–02–P

AMENDMENTS TO
THE BAD RIVER BAND OF LAKE SUPERIOR CHIPPEWA INDIANS
AND THE STATE OF WISCONSIN
GAMING COMPACT OF 1991

This Agreement is entered into by and between the Bad River Band of Lake Superior Chippewa Indians ("Tribe") and the State of Wisconsin ("State").

WHEREAS, Section XXX of the Bad River Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact of 1991 provides that it may be amended upon the written agreement of both parties; and Whereas both parties wish the Compact to continue and believe the amendments to the Compact contained herein serve the best interest of both the State and the Tribe,

The State and the Tribe do hereby agree to amend the Compact as set forth below:

1. The term of the Compact shall, pursuant to Section XXV.B. be renewed for a term of five (5) years, from December 12, 1998 to December 12, 2003, subject to further extensions as provided therein.

2. Section V.A. of the Compact is amended by deleting the number "18" wherever it appears in this section and replacing it with the number "21." Section V.A. is further amended by adding the following sentence:

   No person under the age of 21 shall be permitted access to any portion of any facility in which any Class III game is conducted, except for purposes of employment pursuant to section V.B. , or to gain access to the Tribe's non-gaming facilities.

   The amendments to Section V.A. shall take effect on January 1, 1999.

3. Section XXXII of the Compact entitled "PAYMENT TO THE STATE" is created as follows:

   A. The Tribe shall make a payment to the State for each one year period beginning December 12, 1998 through December 12, 2003 in the amount of $230,000.

   B. In the event a change in State law is enacted to permit the operation of electronic games of chance, or other Class III games, as defined in and authorized by this Compact, by any person other than a federally recognized Tribe under the provisions of the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et. seq., or the State Lottery as authorized by Ch. 565 Wis. Stats., the Tribe shall be relieved of its obligations to pay these amounts. If a subsequent agreement regarding class III gaming substantially and adversely affects the Tribe's class III gaming revenues, the State and the Tribe shall meet to discuss a reduction of the amount required pursuant to Section XXXII.A.

C. Method of Payment. The Tribe shall make quarterly payments beginning on December 31, 1998.

D. The parties may modify this obligation to pay pursuant to a subsequent agreement.

E. In the event that a natural or man-made disaster renders impossible the operation of fifty (50) percent or more of the electronic games of chance operated by the Tribe under this compact for a period of fourteen (14) consecutive days or more, the payment required under this section for the year in which the disaster occurs shall be reduced by a percentage equal to the percentage decrease in the net win (total amount wagered less winnings paid) for the calendar year in which the natural disaster occurred compared with the net win for the previous calendar year, and the State and Tribe shall meet to discuss additional assistance.

F. In the event that, after the effective date of this amendment, the State enacts any law which imposes a new tax, fee, assessment, or other charge which is assessed directly on the Tribe's Class III gaming revenues, or a tax exclusively on winnings generated at the Class III gaming facilities, the State and Tribe shall meet to discuss a modification to Section XXXII. of this Compact.

4. Section XXXIII of the Compact entitled "ADDITIONAL BENEFITS TO TRIBE" is created as follows:

Should the State and any other compacting Tribe within Wisconsin amend a current gaming compact or adopt a new gaming compact with terms that are more favorable to the compacting Tribe or to the State than are the terms of this Compact, upon request by Tribe, the parties shall meet to negotiate the incorporation of substantially similar provisions into the Compact and, if applicable and agreeable to the parties, substantially similar provisions shall be incorporated into the Compact.

5. Section XXXIV of the Compact is created as follows:

A. In the event that the amendments contained herein are disapproved, in whole or in part, by the Secretary of the Interior, either party may serve on the other a demand for renegotiation of such portion of the Compact amendments of June, 1998 as are impacted. The parties shall meet to negotiate revisions to address such objection as may be raised. If a mutually satisfactory solution is not achieved within thirty (30) days of the Secretary's action, either party may during the sixty (60) day period thereafter serve upon the other a notice of nonrenewal of Compact. The Compact shall then expire 180 days after service of a notice of nonrenewal of Compact pursuant to this section.

B. In the event that a court of competent jurisdiction holds any or all of the amendments to the Compact contained herein to be unenforceable or invalid within six (6) months of the execution of said amendments, either party may serve on the other a demand for renegotiation of such portion of the Compact amendments of June, 1998 as are impacted. The parties shall meet to negotiate revisions to address such objection as may be raised. If a mutually satisfactory solution is not achieved within thirty (30) days of the court's holding, either party may during the sixty (60) day period thereafter serve upon the other a notice of nonrenewal of Compact. The Compact shall then expire 180 days after service of a notice of nonrenewal of Compact pursuant to this section.

C. In the event that a court of competent jurisdiction holds any or all of the amendments to the Compact contained herein to be unenforceable or invalid later than six (6) months after the execution of these Compact amendments, the parties shall meet to negotiate terms to replace those affected by the decision of the court.

6. The Tribe, along with other Wisconsin Indian Tribes, agrees to propose the development of a plan by February 1999 for the creation of a revenue sharing system among the Tribes so that monies would be directed by the Tribes within Wisconsin having the greatest gaming revenues to the Tribes having the least gaming revenues. The Tribe agrees to make its best efforts to develop such a plan in consultation with other Wisconsin Indian Tribes by February 1999. The State agrees to work with the Tribes on the development of this plan.

7. Section XXXV of the Compact is created as follows:

By July 1, 1999 the Tribe shall have entered into written agreements with all units of local governments providing services to a Class III gaming facility of the Tribe, to reimburse those units of local governments for such services.

8. The State and Tribe agree to execute contemporaneous with the execution of these compact amendments documents entitled Memorandum of Understanding Regarding Technical Matters and Memorandum of Understanding Regarding Government to Government Matters, which documents are incorporated herein by reference.

BAD RIVER BAND
OF LAKE SUPERIOR
CHIPPEWA INDIANS

By: Donald Moore
Donald Moore, Sr.,
Tribal Chair
Date Signed: 6/11/98

STATE OF WISCONSIN

By: Tommy G. Thompson
Tommy G. Thompson,
Governor
Date Signed: June 11, 1998

Consistent with 25 U.S.C.A. Sec. 2710 (d)(8), the Amendments to the Bad River Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact dated June 11, 1998, is hereby approved on this 7 day of August, 1998, by the Assistant Secretary - Indian Affairs, United States Department of the Interior.

UNITED STATES DEPARTMENT OF THE INTERIOR

Kevin Gover
Assistant Secretary - Indian Affairs

MEMORANDUM OF UNDERSTANDING
REGARDING TECHNICAL MATTERS

Whereas, the State of Wisconsin (State) and the Bad River Band of Lake Superior Chippewa Indians (Tribe) have executed amendments to the Bad River Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact of 1991, and

Whereas the State and the Tribe desire to execute this Memorandum contemporaneous with the Compact Amendments and incorporate this Memorandum into the Compact Amendments, and

Whereas, the State and the Tribe agree that the revisions contained herein will enable both parties to more effectively and efficiently perform the respective responsibilities regarding the Tribe's Class III gaming operation, to the benefit of both parties,

The parties hereby agree that the following terms and provisions are incorporated by reference into the Amendments to the Bad River Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact of 1991.

1. The Tribe shall utilize in its Class III gaming operations minimum internal control standards at least as restrictive as those adopted by the National Indian Gaming Association. In the event any provision of the minimum internal control standards conflicts with the provisions of this Compact, the terms of the Compact shall control. The Department of Administration, Division of Gaming and the Tribe may designate, in writing, minimum internal control standards which conflict with the Compact as acceptable for use in the Tribe's Class III gaming facilities. In the event the Department enters into such written designation the written designation shall constitute a waiver, for a duration specified in the written designation, of the State's ability to allege compliance with the designated minimum internal control standard as a violation of the Compact.

2. In order to more efficiently provide the Department with access to the Tribe's slot accounting data generated by the slot accounting system described at Section XV.D.7. of the Compact, the Tribe agrees to provide electronic reports or data, in batch format, which shall be composed of daily audit report, daily variance report and weekly-metered activity of individual machines. The Tribe shall upon request furnish the Department additional slot accounting information or reports electronically within 24 hours of request. The Tribe's weekly metered activity report shall contain the machines listed by Tribal ID with month to date, hard/soft totals, electronic hard/soft totals, drop variance, jackpots, fills, net win par percentage and variance percentage. Once a month this report shall contain year to date and life to date information.

A twenty-four (24) hour advance notice shall be submitted to the Department in writing for purposes of maintenance and upgrading. The Tribe and Department may agree to implement alternative electronic mechanisms for the submission of the slot accounting data or reports

All data provided, pursuant to this section, shall be treated as confidential pursuant to Section X.B. of the Compact and such data shall not be disclosed in the form of statewide aggregate totals without permission of the Tribe.

BAD RIVER BAND
OF LAKE SUPERIOR
CHIPPEWA INDIANS

By: _____
Donald Moore, Sr.,
Tribal Chair

Date Signed: 6/11/98

STATE OF WISCONSIN

By: _____
Tommy G. Thompson,
Governor

Date Signed: June 11, 1998

MEMORANDUM OF UNDERSTANDING REGARDING GOVERNMENT TO GOVERNMENT MATTERS

This Memora~~ndum of~~ Understanding is entered into by and between the Bad River Band of Lake Superior Chippewa Indians ("TRIBE") and the State of Wisconsin ("STATE").

WHEREAS, TRIBE and STATE on this date have entered into Amendments to the Bad River Band of Lake Superior Chippewa Indians and the State of Wisconsin Gaming Compact of 1991; and

WHEREAS, said amendments provide for the payment of monies by TRIBE to STATE; and

WHEREAS, the parties desire to specify the usage to be made of such monies; and

WHEREAS, the parties wish to meet on a regular basis to address government to government issues of mutual concerns;

NOW THEREFORE IT IS AGREED that the Governor shall undertake his best efforts within the scope of his authority to assure that monies paid to the STATE hereunder shall be expended upon:

1) Economic development initiatives to benefit Tribes and/or American Indians within Wisconsin,
2) Economic development initiatives in regions around casinos,
3) Promotion of tourism within the State of Wisconsin,
4) Support of programs and services of the County in which the Tribe is located, and
5) Law enforcement initiatives on reservation~~s~~.

IT IS FURTHER AGREED that the STATE and the TRIBE shall establish a schedule of regular meetings to address law enforcement issues of mutual concerns.

IT IS FURTHER AGREED that the STATE and the TRIBE shall negotiate additional memoranda of understanding on government to government issues of mutually agreed upon concerns no later than December 12, 1998 and each December 12 thereafter for the duration of this Compact. One meeting between the STATE and the TRIBE each year shall contain an accounting of the funds expended in accordance with this agreement.

BAD RIVER BAND
OF LAKE SUPERIOR
CHIPPEWA INDIANS

By: Donald Moore
Donald Moore, Sr.,
Tribal Chair

Date Signed: 6/11/98

STATE OF WISCONSIN

By: Tommy G. Thompson
Tommy G. Thompson,
Governor

Date Signed: June 11, 1998