United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

APR 21 1999

Honorable Apesanahkwat
Chairman
Menominee Indian Tribe of Wisconsin
P.O. Box 910
Keshena, Wisconsin 54135

Dear Chairman Apesanahkwat:

We are in receipt of the Amendments to the Menominee Indian Tribe of Wisconsin (Tribe) and the State of Wisconsin (State) Gaming Compact of 1992 dated March 2, 1999. 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 wish the Tribe and the State continued success in this 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
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 Menominee Indian Tribe of Wisconsin and the State of Wisconsin Gaming Compact, which were executed on March 2, 1999.

DATES: This action is effective April 29, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4066.

Dated: April 21, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–10676 Filed 4–28–99; 8:45 am]

BILLING CODE 4310–02–P

AMENDMENTS TO THE MENOMINEE INDIAN TRIBE OF WISCONSIN AND THE STATE OF WISCONSIN GAMING COMPACT OF 1992

This Agreement is entered into by and between the Menominee Indian Tribe of Wisconsin ("Tribe") and the State of Wisconsin ("State").

WHEREAS, Section XXXI. of the Menominee Indian Tribe of Wisconsin and the State of Wisconsin Gaming Compact of 1992 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 XXVI.B. be renewed for a term of five (5) years, from September 3, 1999 to September 3, 2004, 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-Class III gaming facilities.

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

3. Section XV.I. of the Compact is created to read:

   The Tribe shall limit use of electronic games of chance at locations other than its two (2) facilities in Keshena to no more than one location.

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

A. The Tribe shall make an annual payment to the State for each one year period beginning September 3, 1999 through September 3, 2004, in the amount of $747,371. Each twelve (12) month period beginning September 3, 2000, and ending on September 3, 2004, shall be considered a base year for purposes of this section. The Tribe shall make annual payments in the amount of $747,371 for each base year of the Compact extension, which payments shall be supplemented by the following amount:

1. For every percentage increase in the net win at the Tribe's Class III gaming facilities, the Tribe shall pay to the State an additional $7,473. Net win shall mean the total amount wagered less winnings paid.
2. The increases in net win shall be measured by comparing the net win at the Tribe's Class III gaming facilities in the base year for which the payment applies, with the net win at the Tribe's Class III gaming facilities in the immediately preceding base year. The amount shall be reported to the State by the Tribe within sixty (60) days of the close of the preceding year and shall be subject to verification by the State.

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 XXXIII.A.

C. Method of Payment. The Tribe shall make the first payment required by Subsection A. on or before September 3, 2000, and each subsequent payment on September 3, 2001, September 3, 2002, September 3, 2003 and September 3, 2004 respectively.

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.

5. Section XXXIV. 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.

6. Section XXXV. 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 March, 1999 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 March, 1999 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.

7. Section XXXVI. 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. Section XXXVII. of the Compact is created to read:

In the event that the Secretary of the Department of the Interior determines, pursuant to 25 U.S.C. 2719(b)(1)(A), that the Tribe may conduct Class III gaming on lands acquired after October 17, 1988 (hereafter, after acquired lands), and the Governor concurs in that determination as required by 25 U.S.C. 2719(b)(1)(A), the State and the Tribe shall meet to negotiate amendments to this Compact to set forth the terms and conditions under which Class III gaming may be conducted on the after acquired lands, which amendments shall be completed prior to the Tribe conducting Class III gaming on the after acquired lands.

9. 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.

MENOMINEE INDIAN TRIBE
OF WISCONSIN

By: Apesanahkwat,
Tribal Chairman

Date Signed: March 2, 1999

STATE OF WISCONSIN

By: Tommy G. Thompson,
Governor

Date Signed: March 2, 1999

Consistent with 25 U.S.C.A. Sec. 2710 (d)(8), the Amendments to the Menominee Indian Tribe of Wisconsin and the State of Wisconsin Gaming Compact of 1992 dated March 2, 1999, is hereby approved on this 21st day of April, 1999, 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 GOVERNMENT TO GOVERNMENT MATTERS

This Memorandum of Understanding is entered into by and between the Menominee Indian Tribe of Wisconsin ("TRIBE") and the State of Wisconsin ("STATE").

WHEREAS, TRIBE and STATE on this date have entered into Amendments to the Menominee Indian Tribe of Wisconsin and the State of Wisconsin Gaming Compact of 1992; 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 concern;

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, and
3) Promotion of tourism within the State of Wisconsin.

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

IT IS FURTHER AGREED that the STATE shall consult with the TRIBE regarding the content of the proposals for distribution of the monies paid to the STATE hereunder.

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 September 3, 1999 and each September 3 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.

MENOMINEE INDIAN TRIBE
OF WISCONSIN

By: _____
Apesanahkwat,
Tribal Chairman

Date Signed: March 2, 1999

STATE OF WISCONSIN

By: _____
Tommy G. Thompson,
Governor

Date Signed: Mar 2, 1999

MEMORANDUM OF UNDERSTANDING
REGARDING TECHNICAL MATTERS

Whereas, the State of Wisconsin ("State") and the Menominee Indian Tribe of Wisconsin ("Tribe") have executed amendments to the Menominee Indian Tribe of Wisconsin and the State of Wisconsin Gaming Compact of 1992, 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 Menominee Indian Tribe of Wisconsin and the State of Wisconsin Gaming Compact of 1992.

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, or those promulgated by the National Indian Gaming Commission as set out in 25 C.F.R. Part 542. The Tribe shall use the internal control standard which is more restrictive. 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 ("Department") 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 and report format, which shall be composed of daily audit report, daily variance report and daily-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 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. Electronic game of chance notifications required by Section XV.C. may be submitted electronically. The serial number required by Section XV.C. may be provided to the Department at any time prior to installation.

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.

3. Temporary Certification. The Department shall have the authority to grant a temporary certificate to a gaming-related contractor applicant that has met criteria determined by the Department. An application shall not be considered complete until all information requested by the Department has been supplied. Within sixty (60) days of the Department's receipt of a completed application and upon receipt of a written request by the Tribe, the Department may issue a temporary certificate if all criteria are met. The temporary certificate shall become void upon the issuance, denial or revocation of a gaming-related contractor certificate in accordance with the provisions of this Compact. If after receiving temporary certification, the Department finds cause to deny the contractor a certificate, any contract entered into by that contractor and the Tribe shall be considered null and void, and all consideration received by the contractor returned to the Tribe provided, however, that to the extent that any such consideration was paid for any goods or services previously consumed by the Tribe, the Tribe shall not be under any obligation to return the subject goods or services and the vendor shall not be responsible for returning the consideration received therefor. If after receiving temporary certification, the Department finds cause to deny the contractor a certificate, the Department may, in addition to denying the certificate, issue a forfeiture against the vendor of up to 50% of the consideration received by the vendor while doing business in Wisconsin pursuant to a temporary certificate. In determining whether to assess a forfeiture, and the amount of the forfeiture, the Department shall consider: whether the temporary certificate holder, its officers, directors, employees or agents knew, or reasonably should have known, of the facts or circumstances which served as the basis for the denial of the certificate application; and, the amount of consideration received from Wisconsin Tribes while the applicant was doing business pursuant to a temporary certificate.

4. The Tribe shall provide any necessary authorization for either the Department or the State Treasurer to initiate ACH (Automated Clearinghouse) debit entries from an account(s) and financial institution(s) specified by the Tribe. The electronic transfer of funds shall be solely for the purpose of collecting monies due to the State of Wisconsin pursuant to Section XXV. and Section XXXIII. of the Menominee Indian Tribe of Wisconsin and State of Wisconsin Gaming Compact, as amended. Representatives from the Tribe and the Department shall by September 3, 1999 cooperatively develop written procedures to be followed by the Department and the Tribe in implementing the automated funds transfer specified herein.

MENOMINEE INDIAN TRIBE
OF WISCONSIN

By: _____
Apesanahkwat,
Tribal Chairman

Date Signed: March 2, 1999

STATE OF WISCONSIN

By: _____
Tommy G. Thompson,
Governor

Date Signed: March 2, 1999