United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAR 17 1995

Honorable Wa-Walton/Robert Joe, Sr.
Chairman
Swinomish Indian Tribal Community
P.O. Box 817
950 Moorage Way
LaConner, Washington 98257

Dear Chairman Wa-Walton:

On February 2, 1995, we reviewed the First Amendment to the Tribal/State Compact for Class III Gaming Between the Swinomish Indian Tribal Community (Tribe) and the State of Washington (State), dated January 26, 1995 (Amendment).

We have completed our review of the Amendment and conclude that it does not violate the Indian Gaming Regulatory Act (IGRA), other Federal law or our trust responsibility. Therefore, pursuant to my delegated authority and Section 11 of the IGRA, we approve the Amendment. The Amendment shall take effect when notice of our approval, pursuant to Section 11(d)(3)(B) of the IGRA (25 U.S.C. § 2710(d)(3)(B)), is published in the FEDERAL REGISTER.

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

Sincerely,

Ada E. Deer

Ada E. Deer
Assistant Secretary - Indian Affairs

Enclosures

Identical Letter to: Honorable Mike Lowry
Governor of Washington
State Capitol
Olympia, Washington 95804

ORIGINAL

FIRST AMENDMENT
to
TRIBAL - STATE COMPACT FOR CLASS III GAMING
Between the
SWINOMISH INDIAN TRIBAL COMMUNITY
and the
STATE OF WASHINGTON

WHEREAS, on December 21, 1992, the Governor of the State of Washington and the Chairman of the Swinomish Indian Senate, the governing body of the Swinomish Indian Tribal Community, executed a Compact pursuant to the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68 ("IGRA"), and

WHEREAS, pursuant to IGRA and by action of the Department of the Interior on February 11, 1993, the Compact became effective on February 19, 1993.

NOW, THEREFORE, the parties hereby amend the Compact as follows:

Section III.A.1. is amended to read as follows:

1. Blackjack, Money-wheel, Roulette, Baccarat, Chuck-a-luck, Pai-gow, Red Dog, Chemin De Fer, Craps, 4-5-6, Ship-Captain-Crew, Horses (stop dice), Beat the Dealer, Over/Under Seven, Beat My Shake, Horse Race, Sweet Sixteen, Sic-Bo, Keno and Keno-type games, Caribbean Stud Poker, and any other table games authorized for play in the State of Nevada.

Section III.F. is amended to read as follows:

F. Size of Gaming Floor
The actual Class III gaming floor within the gaming facility shall be determined by the Tribe.

Section III.G. is amended to read as follows:

G. Number of Gaming Stations
1. Phase One. Until "Phase Two" is implemented as provided in Subsection 2 of this Section, the maximum number of Class III gaming stations shall not exceed thirty-one (31) plus, at the option of the Tribe, one (1) additional gaming station ("the

nonprofit station"). The proceeds from the nonprofit station shall be dedicated to support non-profit and charitable organizations and their activities within the State of Washington. For the purpose of determining the proceeds from the nonprofit station only, "proceeds" shall mean the net win from the nonprofit station less expenses directly related to the operation and regulation of the nonprofit station. Capital costs shall not be considered an expense directly related to the nonprofit station. The Tribe may choose, at its option, not to deduct expenses, or to deduct less than all expenses directly related to the nonprofit station, in calculating the "proceeds" of the nonprofit station. The net win from the nonprofit station shall not be considered in calculating the community contribution provided for in Section XIII.C. of this Compact.

2. Phase Two. After six months of operation, the State Gaming Agency shall conduct a review of the Class III operation to determine general compact compliance and whether the conditions set forth below have been satisfied. If, as a result of the review, the State Gaming Agency determines that the operation is in compliance with these conditions, the Class III operation may immediately implement "phase two" wager limits, as provided in Section III.H., and "phase two" hours of operation, as provided in Section III.I., and may operate up to fifty (50) gaming stations plus, at the option of the Tribe, up to two (2) nonprofit stations. If the State Gaming Agency determines that the Class III operation has not satisfied the conditions, any resulting dispute will be resolved through the dispute resolution procedures set forth in Section XI of this Compact. Any increase in the number of gaming stations, hours of operation, or wager limits beyond that initially authorized during "phase one" of Class III gaming operations shall be conditioned upon the following criteria:

(a) There have been no violations of the provisions of the Compact that have resulted in sanctions imposed by the Federal District Court or the National Indian Gaming Commission.

(b) There have been no violations of the Compact which are substantial or, due to repetition, would be deemed material.

(c) There have been no material adverse impacts on the public health, safety, or welfare of the surrounding communities in the nature of criminal activities directly related to the operations of the Class III gaming facility.

(d) There have been no substantial and repeated violations of Appendix A of this Compact.

(e) The Tribal Gaming Agency has developed a strong program of regulation and control demonstrating an adequate level of proficiency, which includes the hiring of trained Tribal Gaming Agents, an independent management and reporting structure separate from that of the gaming facility or tribal bodies, a thorough and developed system for the reporting of Compact violations, and a strong and consistent regulatory presence within the Class III facility.

Section III.H. is amended to read as follows:

H. Wagering Limitations

During "phase one," as provided in Section III.G.1., wager limits shall not exceed two hundred fifty dollars ($250). Upon implementation of "phase two," as provided for in Section III.G.2., wager limits shall not exceed five hundred dollars ($500).

Section III.I. is amended to read as follows:

I. Hours of Operation

1. During "phase one," as provided in Section III.G.1., Class III operating hours may not exceed one hundred twelve (112) hours per week on an annualized basis. Upon implementation of "phase two," as provided for in Section III.G.2., Class III operating hours may not exceed one hundred forty (140) hours per week on an annualized basis.

2. The Tribe may schedule the hours of its Class III gaming operations to best comply with market conditions and may operate any day of the week. The Tribal Gaming Agency shall provide advance notice to the State Gaming Agency of dates and times the facility will be open to the public. Except as provided in subsection 3 of this section, the Class III gaming operation shall be open no more than twenty (20) hours in any twenty-four (24) hour period, and shall be closed to the public from 2:00 a.m. until 6:00 a.m. each day of operation; provided, that the Tribe may conduct Class III gaming operations past the hour of 2:00 a.m. upon mutual written agreement by the State Gaming Agency and the Tribal Gaming Agency and the absence of objection by local law enforcement agencies.

3. Upon thirty (30) days written notice to the State Gaming Agency and upon mutual written agreement between the State Gaming Agency and the Tribal Gaming Agency, the Tribe may, not more than three times in any calendar year, conduct continuous, uninterrupted Class III operations for a period of up to seventy-two (72) hours.

Section XIV.D.2.(c) is amended to read as follows:

(c) another tribe west of the Cascade Mountains, obtains, through a Compact approved by the Secretary of the Interior, greater levels of wagering, hours of operation, size and/or scope of Class III gaming activities, than authorized by the provisions of this Compact;

A New Section XIV.D.2.(d) is added as follows:

(d) a tribe east of the Cascade Mountains obtains, through a Compact approved by the Secretary of the Interior, greater levels of wagering, hours of operation, size and/or scope of Class III gaming activities, than authorized by the provisions of this Compact, and the Tribe can demonstrate that such levels have resulted in an adverse economic impact on the Class III gaming operation.

Section XIV.D.4. is amended to read as follows:

4. Renegotiation - Either Party

(a) Except as provided in Subsection b of this Section, at any time after thirty-six (36) months from the date of opening the gaming facility authorized under this Compact, either the Tribe or the State may request renegotiation of any of the provisions of this Compact if and when circumstances or events unforseen or not adequately addressed at the time of the negotiation and execution of this Compact occur that merit the discussion and renegotiation of such provisions. The request to renegotiate shall include the activities or circumstances the party wishes to negotiate, together with a statement of the basis supporting the request. The parties agree that negotiations shall commence within thirty (30) days of the request. The terms and provisions of the then-existing Compact will remain in effect unless and until the parties agree on the renegotiated terms.

(b) Sections III.D., III.G., III.H., and III.I., regarding number of Class III gaming facilities, number of gaming stations for table games, wager limits, and maximum hours of Class III operations, will not be subject to renegotiation or amendment for thirty-six (36) months from the date of this amendment, unless one of the following occurs: (1) the laws of the State are amended, expanding gaming beyond that which is now allowed under the terms of this Compact; (2) a State or Federal court within the State of Washington or a Federal court interpreting the laws of the State of Washington issues a final and unappealable decision permitting participation in a gaming activity that was not authorized for any purpose by any person, organization, or entity at the time this Compact was executed or was not authorized by this Compact; (3) another tribe west of the Cascade Mountains, obtains, through a Compact approved by the Secretary of the Interior, greater levels of wagering, hours of operation, size and/or scope of Class III gaming activities, than authorized by the provisions of this Compact; or (4) a tribe east of the Cascade Mountains obtains, through a Compact approved by the Secretary of the Interior, greater levels of wagering, hours of operation, size and/or scope of Class III gaming activities, than authorized by the provisions of this Compact, and the Tribe can demonstrate that such levels have resulted in an adverse economic impact on the Class III

gaming operation. Further, Section XIV.D.1., which provides that the parties may "mutually agree" to renegotiations and/or Compact amendments, may not be invoked during this thirty-six (36) month period to seek changes in the authorized number of Class III gaming facilities, authorized number of gaming stations for table games, wager limits, or maximum hours of Class III operations.

SWINOMISH INDIAN TRIBAL COMMUNITY

By: WaWalton 12-19-94
WaWalton / Robert Joe, Sr. Date
Chairman, Swinomish Indian Senate

THE STATE OF WASHINGTON

By: Mike Lowry 1-26-95
Mike Lowry Date
Governor

APPROVED BY THE ASSISTANT SECRETARY - INDIAN AFFAIRS

By: Ada E. Deer
ADA E. DEER

Date: 3-17-95