United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

DEC 26 1996

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 November 15, 1996, we reviewed the Second Amendment to the Tribal-State Compact for Class III Gaming Between the Swinomish Indian Tribal Community (Tribe) and the State of Washington (State), dated October 4, 1996. We have completed our review of the Amendment and conclude that it does not violate the Indian Gaming Regulatory Act of 1988 (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 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 success in this economic venture.

Sincerely,

/s/ Elizabeth L. Homer

Acting For Ada E. Deer
Assistant Secretary - Indian Affairs

RECEIVED
NATIONAL INDIAN
GAMING COMMISSION
97 JAN 13 PM 12:55

Enclosure

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

cc: Portland Area Office w/copy of Approved Amendment
Puget Sound Superintendent w/copy of Approved Amendment
National Indian Gaming Commission w/copy of Approved Amendment
Pacific Northwest Regional SOL Ofc w/copy of Approved Amendment
Western Dist. - U.S. Attorney w/copy of Approved Amendment

970113-00036

Indian Gaming; Notice of Approved Second Amendment to Tribal-State Compact

AGENCY: Bureau of Indian Affairs, Interior.

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) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Second Amendment to the Tribal-State Gaming Compact Between the Swinomish Indian Tribal Community and the State of Washington executed on October 4, 1996.

DATES: This action is effective January 7, 1997.

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

Dated: December 26, 1996.

Elizabeth L. Homer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–244 Filed 1–6–97; 8:45 am]

BILLING CODE 4310–02–P

SECOND 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 Tribal Community executed a Compact pursuant to the Indian Gaming Regulatory Act of 1988, P.L. 100-497, codified at 25 USC Section 2701-2721 and 18 USC Section 1166-1168, and

WHEREAS, the State and the Tribe executed a Class III Gaming Compact, which Compact was approved by the Secretary of the Interior and is in full force and effect (hereinafter referred to as the "Compact"), and

WHEREAS, the parties wish to amend Section III (A) and add an Appendix B to said Compact to add Satellite (Off-Track) Wagering on Horse Races.

NOW, THEREFORE, and pursuant to Section XIV of said Compact, the following Section of said Compact shall be and hereby is amended to read and state as follows:

Section III (A) is hereby amended by the addition of the following, to wit:

III. NATURE, SIZE AND SCOPE OF CLASS III GAMING

A. Scope of Class III Gaming Activities
The Tribal gaming operation may utilize in its gaming facility, subject to the provisions of this Compact, any or all of the following Class III activities:

1. Black Jack
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~~
Satellite (Off-Track) Wagering on Horse Races, subject to Appendix B, and,
any other table games authorized for play in the state of Nevada.

Furthermore, there is hereby added by amendment to the Compact a new Appendix providing for the rules and regulation of Satellite (Off-Track) Wagering on Horse Races, to wit:

APPENDIX B (in the form attached hereto and incorporated herein as though set forth in full).

WITNESS WHEREOF, the Swinomish Indian Tribal Community and the State of Washington have executed this amendment to the Compact.

SWINOMISH INDIAN TRIBAL COMMUNITY

Rita Walton

BY: Robert Joe Jr. Dated: 9-5, 1996.
Robert Joe, Sr., Chairman

STATE OF WASHINGTON

BY: Mike Lowry Dated: 10-4, 1996.
Mike Lowry, Governor

DEPARTMENT OF THE INTERIOR

BY: [Elizabeth Homer] Dated: 12/26/96, 1996.
Acting for Ada E. Deer
Assistant Secretary - Indian Affairs

SWINOMISH INDIAN TRIBAL COMMUNITY

APPENDIX B

APPENDIX B

SWINOMISH INDIAN TRIBAL COMMUNITY - STATE OF WASHINGTON CLASS III GAMING COMPACT

RULES GOVERNING CLASS III GAMING on the SWINOMISH RESERVATION

SECTION 1. SATELLITE (OFF-TRACK) WAGERING ON HORSE RACES

4.1 DEFINITIONS.

4.1.1 "Conventional parimutuel pool" means the total wager under the parimutuel system on any horse or horses in a particular race to win, place, or show.

4.1.2 "Commission Regulations" means Title 260 WAC.

4.1.3 "Exotic parimutuel pool" means the total wagers under the parimutuel system on the finishing position of two or more horses in a particular race, such as Quinella or Exacta wagers, or on horses to win two or more races, such as Daily Double wagers, Pick Six wagers, or on other wagers other than conventional parimutuel pool wagers.

4.1.4 "Horse Racing Law" means Chapter 67.16 RCW.

4.1.5 "Parimutuel wagering" means a form of wagering on the outcome of horse races in which those who wager purchase tickets of various denominations on a horse or horses in one or more races. When the outcome of the race or races has been declared official, there is a distribution of the total wagers comprising each pool, less any amounts permitted to be retained by law or under this Compact, to holders of winning tickets on the winning horse or horses.

4.1.6 "Satellite Wagering" means parimutuel wagering on simulcast results.

4.1.7 "Satellite wagering facility" means any facility in which satellite wagering is conducted.

4.1.8 "Simulcast" means the simultaneous television or radio transmission of a race to a facility other than where the race meet is being held.

4.1.9 "Wagering employee" means any person who is employed by the Tribe or at any satellite wagering facility hereunder to handle any monies, materials, records or equipment related to the satellite wagering permitted herein, or who supervises any person who does so or supervises any such supervisor.

4.1.10 Except as otherwise provided herein, meanings ascribed to terms used in the Horse Racing Law and the Commission Regulations are hereby adopted by reference wherever such terms are used in this Compact.

4.2 APPLICABILITY OF LAWS. Wagering at the Swinomish tribal satellite wagering facility will be conducted in accordance with this Compact, the Indian Gaming Regulatory Act, the Interstate Horseracing Act, any ordinances or regulations adopted by the Tribe, and Washington Horse Racing Laws as made applicable herein. Nothing herein shall otherwise be deemed a prohibition upon or limitation upon tribal operation of a satellite wagering facility by the Tribe or on behalf of the Tribe.

4.3 REGULATION OF SATELLITE (OFF-TRACK) WAGERING.

4.3.1 Wagering Permitted. The Tribe is entitled to operate a single satellite wagering facility pursuant to this Compact subject to the following terms and conditions:

a. Unless permitted in accordance with subparagraph c., below, Tribe may conduct satellite wagering only on events simulcast from any Washington State track (whether of a live race, or an authorized simulcast of an out-of-state signal) on the same terms and conditions permitted any other satellite wagering facility in the State without limitation on the distance such tribal facility is from a live race meet, provided, the Tribe is entitled to receive simulcast signals from each Washington State track on terms at least as advantageous as those made available by such track to any other satellite facility operated at a track holding a Class A or Class B Washington Horseracing Commission license or at any other facility operated or leased by an entity holding such a license. Negotiations conducted between the Tribe and the track shall cover areas including, but not limited to, the following: percent of handle received; equipment required and who provides such equipment; who provides wagering employees; and how and on what schedule funds will be transferred. All wagers accepted at the tribal facility on such events shall be made into the parimutuel pool of the Washington State track which provides the simulcast signal, and shall be deemed to have been made at the location of such pool for the purposes of assessment of fees, charges, taxes or other assessments. Nothing herein shall prohibit assessment by the Tribe of taxes, fees or other charges for wagering conducted at the tribal facility, nor shall the State or any of its political subdivisions be authorized to impose any taxes, fees, charges or assessments upon the Tribe or any person or entity authorized to conduct such activities on behalf of the Tribe for the satellite wagering activities regulated hereunder, other than those generally applicable to the parimutuel pool.

b. In the event the Tribe believes it is not offered simulcast signals from a Washington State track on terms at least as advantageous as those made available by such track to the other satellite wagering operators as set forth in subparagraph a., above, the Tribe may request a formal determination from the Commission. The sole issues in such determination will be whether the Washington State track provides terms to those other satellite wagering operators which are more advantageous than those offered to the Tribe and, if so, what terms are less advantageous to the Tribe. Provided, the Commission shall conduct a hearing and render a decision within ninety (90) days after receipt of the request for a determination from the Tribe, and further provided, that if the Commission decision is not rendered within that time, the Tribe is entitled to conduct satellite wagering in accordance with the provisions of subparagraph c., below. If the Commission determines that the terms offered Tribe are less advantageous, the Washington State track shall have thirty (30) days to offer terms that are at least as advantageous to the Tribe, or the Tribe will be entitled to conduct satellite wagering in accordance with subparagraph c., below. If the Tribe disputes the determination of the Commission regarding whether the terms offered to the Tribe are less

advantageous, the Tribe or State may request arbitration under Section XI.C of this Compact.

c. If, following an adverse determination from the Commission, the Washington State track does not offer the terms identified by the Commission in accordance with subparagraph b., above, the Tribe shall be entitled to negotiate for and receive simulcast signals from out-of-state races for an equivalent number of races, to be offered within the subsequent twelve (12) month period, on such terms and conditions as it may obtain. Acceptance of signals from out-of-state tracks shall be made in compliance with the Interstate Horseracing Act, 15 USC §3001, et seq.. Nothing in this section (Section 4) shall be deemed to limit acceptance of satellite wagers to the extent permitted under the Interstate Horseracing Act. Consent of the Commission, as required under the Interstate Horseracing Act shall not be unreasonably withheld. For disputes concerning whether the Commission has unreasonably withheld its consent, the Tribe or the State may request arbitration under Section XI.C of this Compact.

4.3.2 Hours of Operation. The wagering authorized in the Tribe's satellite wagering facility shall be conducted within the hours authorized for Class III gaming under this Compact. Provided, however, when a track providing a simulcast to the tribal facility operates outside the Tribe's regularly scheduled 80 hours of operation, then the satellite wagering portion of the Class III facility authorized under this Compact may be open to the public during the time the sending track is open to the general public.

4.3.3 Approval of Facility. Subject to approval of the physical adequacy of the facility, the Swinomish Reservation is hereby approved as location for the conduct of satellite wagering as permitted under this Compact. The right of Tribe to conduct satellite wagering from a facility at such location shall not be affected by its distance from any live race meet being broadcast to such facility, and statutes and regulations imposing distance limitations on the location of satellite wagering facilities relative to live race meets, including but not limited to RCW 67.16.200(c), shall not be applicable to Tribe.

4.3.4 Wagering Rules. All of the rules set forth in Chapter 260-48 WAC ("Mutuels") are hereby incorporated by reference as being applicable to any satellite wagering facility authorized hereunder, subject to the following qualifications:

4.3.4.1 References therein to "racing associations" shall mean the Tribe.

4.3.4.2 References therein to "enclosure of any race track" shall mean the satellite wagering facilities authorized hereunder.

4.3.4.3 Parimutuel machines shall be locked at the time and by the same means as are applicable to parimutuel machines at other satellite wagering facilities within the State or as otherwise required by the parimutuel pool operator at the host race track or other authorized source, if different therefrom, but in all cases prior to the start of any race for which bets are being accepted.

4.3.4.4 References to "the manager of the parimutuel department" shall refer to any person appointed to manage the satellite wagering facility authorized under this Compact.

4.3.4.5 The Tribe may accept exotic bets, including but not limited to daily doubles, quinellas, exactas, wagering on "short fields", daily triples, "Pick n", trifectas, and other exotic bets to the extent made available through parimutuel pools by the parimutuel pool operator.

4.3.5 Other Facilities Within Area. In the event the Commission considers allocation

of exclusive or limited areas in which satellite wagering facilities may be located, the Commission will give good faith consideration to designating the Swinomish satellite wagering facility as one of those exclusive or limited area satellite wagering sites. Notwithstanding the foregoing, the conduct of satellite wagering at any other facility, including a live racing facility, in the State shall not affect the right of the Tribe to operate its satellite wagering facility at any time.

4.3.6 Amounts Received by Tribe. The Tribe may receive from parimutuel wagers made at its satellite wagering facility such amounts as may be negotiated between it and the operator of the parimutuel pool (track).

4.3.7 Security Control. The Tribe shall maintain such security controls over any satellite wagering facility authorized hereunder as would be required by the Commission for a comparable facility off the Reservation. The Tribe shall remove, deny access to, eject or exclude persons whose presence within such facility would be contrary to the interests of the Tribe or the State in operating an honest, legitimate facility or in meeting the goals and objectives of this Compact or the Act.

4.3.8 Accounting Practices and Audits. Any satellite wagering facility authorized hereunder shall maintain its books and records in accordance with generally accepted accounting principles and such rules and regulations, if any, as are applied to satellite wagering facilities in the State.