



August 3, 2011

Via U.S. Mail & Facsimile

Jeromy Sullivan, Chairman
Port Gamble S'Klallam Tribe
31912 Little Boston Road NE
Kingston, WA 98346-9700
Fax: (360) 297-7097

Re: Review of financing documents for the Port Gamble S'Klallam Tribe

Dear Chairman Sullivan:

This letter responds to your July 7, 2011 request on behalf of the Port Gamble S'Klallam Tribe (Tribe) for the National Indian Gaming Commission's Office of General Counsel to review the Tribe's financing documents with East West Bank. Specifically, you have asked for my opinion whether the documents are management contracts requiring the NIGC Chairwoman's approval under the Indian Gaming Regulatory Act. You also asked for my opinion whether the financing documents violate IGRA's requirement that a Tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submissions (collectively, "the Financing Documents") most of which are unexecuted, but were represented to be in substantially final form:

- Draft loan agreement marked at bottom left "BN 8901240v9" (Loan Agreement);
- Draft security agreement marked at upper right "Draft dated July 7, 2011" and bottom left "BN 898605v4" (Security Agreement);
- Draft depository agreement marked at bottom left "BN8901886v8" (Depository Agreement);
- Terminal allocation and transfer agreement between the Tribe and the Puyallup Tribe dated May 6, 2011 (Terminal Allocation Agreement); and,
- Draft irrevocable direction letter marked at upper right "Draft dated July 7, 2011" and bottom left "BN 9330450v2" (Irrevocable Direction Letter) from the Tribe to the Puyallup Tribe.

The Financing Documents submitted by the Tribe contain terms similar to other agreements the Office of General Counsel has already reviewed and analyzed. *See* www.nigc.gov/Reading_Room/Management_Review_Letters.aspx. Applying the same

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analysis here, it is my opinion that the Financing Documents are not management contracts and do not require the approval of the Chairwoman. It is also my opinion that they do not violate IGRA's sole proprietary interest requirement.

It is my understanding that the drafts are represented to be in substantially final form, and if the Financing Documents change in any material way prior to closing or are inconsistent with assumptions made herein, this opinion shall not apply.

I anticipate that this letter will be the subject of Freedom of Information Act (FOIA) requests. Since we believe that some of the information in this letter may fall within FOIA exemption 4 (25 U.S.C. § 552(b)(4)), which applies to commercial or financial information that is privileged or confidential, the release of which could cause substantial harm, I ask that you provide me with your views regarding release within ten days.

I am also sending a copy of the submitted Financing Documents to the Department of the Interior Office of Indian Gaming for review under 25 U.S.C. § 81. If you have any questions, please contact NIGC Staff Attorney Melissa Schlichting at (202) 632-7003.

Sincerely,



Lawrence S. Roberts
General Counsel

cc: Paula Hart, Director
Office of Indian Gaming
(via US Mail w/ incoming)

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