



February 26, 2025

VIA EMAIL

Verrin T. Kewenvoyouma
Kewenvoyouma Law, PLLC
700 East Baseline Rd. Suite C-1
Tempe, AZ 85283

Re: Review of Development Agreement for the Pauma Band of Luiseño Indians

Dear Mr. Kewenvoyouma:

This letter responds to your October 30, 2024 request on behalf of the Pauma Band of Luiseño Indians for the Office of the General Counsel, National Indian Gaming Commission, to review a Development Agreement between the Pauma Band of Luiseño Indians and Palomar Resort Services, LLC (Development Agreement). The request asks for my opinion as to whether the submitted Development Agreement is a management contract requiring the NIGC Chair's approval pursuant to the Indian Gaming Regulatory Act. The request also asks for my opinion as to whether the documents violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submission ("the Agreement"):

- Development Agreement, marked "Draft Submitted 10-29-2024 to NIGC for Declination Review" at top right of each page.

The Agreement contains terms similar to other agreements that OGC has previously reviewed and analyzed. Some of these opinion letters may be found on the NIGC's website. Applying the same analysis here, it is my opinion that the Agreement is not a management contract and does not require the approval of the NIGC Chair. It is also my opinion that it does not violate IGRA's sole proprietary interest requirement.

It is my understanding that the Agreement is represented to be in substantially final form, and if the Agreement changes in any material way prior to execution or is inconsistent with assumptions made herein, this opinion shall not apply. Further, this opinion is limited to the Agreement listed above and does not include or extend to any other agreements not submitted for review, including but not limited to any management agreement engaging Palomar Resort Services, LLC, as the manager of the developed gaming facility.

MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD

WWW.NIGC.GOV

Please note that it is my intent that this letter be released to the public through the NIGC's website. If you have any objection to this disclosure, please provide a written statement explaining the grounds for the objection and highlighting the information that you believe should be withheld.¹ If you object on the grounds that the information qualifies as confidential commercial information subject to withholding under Exemption Four of the Freedom of Information Act (FOIA),² please be advised that any withholding should be analyzed under the standard set forth in *Food Marketing Institute v. Argus Leader Media*.³ Any claim of confidentiality should also be supported with "a statement or certification by an officer or authorized representative of the submitter."⁴ Please submit any written objection to foia@nigc.gov **within thirty (30) days of the date of this letter**. After this time elapses, the letter will be made public and objections will no longer be considered.⁵ If you need any additional guidance regarding potential grounds for withholding, please see the United States Department of Justice's Guide to the Freedom of Information Act at <https://www.justice.gov/oip/doj-guide-freedom-information-act-0>.

If you have any questions, please contact Senior Attorney Austin Badger at (202) 632-7003.

Sincerely,



Rea Cisneros
General Counsel (A)

¹ See 25 C.F.R. § 517.7(c).

² 5 U.S.C. § 552(b)(4).

³ 139 S. Ct. 2356 (2019).

⁴ See 25 C.F.R. § 517.7(d).

⁵ *Id.*