



March 15, 2017

Via email: *sward@cwlaw.com*
and First Class Mail

Stephen R. Ward, Esq.
Conner & Winters, LLP
4000 One Williams Center
Tulsa, OK 74172-0148

Re: Review of the 2017 Loan Documents for the Quapaw Tribe of Oklahoma (O-Gah-Pah)

Dear Mr. Ward:

This letter responds to your January 30, 2017 request, on behalf of the Quapaw Tribe of Oklahoma (O-Gah-Pah), for the National Indian Gaming Commission, Office of the General Counsel, to review revised loan transaction documents and to provide an opinion as to whether or not the submitted loan documents are management contracts requiring the NIGC Chairman's approval pursuant to the Indian Gaming Regulatory Act of 1988. You have also asked for my opinion as to whether or not the loan 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 2017 Loan Documents"):

1. *Credit Agreement Dated as of January 24, 2017, Downstream Development Authority of the Quapaw Tribe of Oklahoma (O-Gah-Pah), as Borrower, Quapaw Tribe of Oklahoma (O-Gah-Pah), as the Tribe, The Lenders Party Hereto, and International Bank of Commerce, as Administrative Agent* (marked at bottom left as "{1571165;12}" and at top right as "Confidential 1-30-17 Execution Version");
2. *Promissory Note* (marked at bottom left as "{1573419;3}" and at top right as "Confidential 1-30-17");
3. *Security Agreement Dated as of January 24, 2017 among each of the Grantors party hereto, BOKF, NA, d/b/a Bank of Oklahoma as Collateral Agent, and International Bank of Commerce, as Administrative Agent* (marked at bottom left as "{1571227;9}" and at top right as "Confidential 1-30-17");
4. *Grant of Security Interest in United States Trademarks* (marked at bottom left as "{1571229;2}" and at top right as "Confidential 1-30-17");

Stephen R. Ward, Esq.

Re: Review of 2017 Loan Documents for the Quapaw Tribe of Oklahoma (O-Gah-Pah)

March 15, 2017

Page 2 of 3

5. *Subsidiary Guaranty Dated as of January 24, 2017 among each of the Guarantors party hereto and International Bank of Commerce, as Administrative Agent and Lender* (marked at bottom left as “{1571226;3}” and at top right as “Confidential 1-30-17”);
6. *Additional Secured Obligations Designation* (marked at bottom left as “{1573422;3}” and at top right as “Confidential 1-30-17”);
7. *Joinder Agreement – Additional Secured Obligations* (marked at bottom left as “{1573424;}” and at top right as “Confidential 1-30-17”); and
8. *Intercreditor Agreement dated as of July 1, 2011 among BOKF, NA dba Bank of Oklahoma, as Senior Secured Notes Indenture Trustee, the other Secured Obligations Representatives from time to time party hereto, BOKF, NA dba Bank of Oklahoma, as Collateral Agent, Downstream Development Authority of the Quapaw Tribe of Oklahoma (O-Gah-Pah), as Issuer, and the other Grantors from time to time party hereto* (marked at bottom left as “SD\787127.12” and at top right as “Execution Version”).

As an initial matter, my office previously issued two, separate opinion letters stating that draft versions of loan document #8 (via opinion letter dated June 7, 2011) and loan documents #1–7 (via opinion letter dated January 13, 2016) were not management contracts and did not require the approval of the NIGC Chairman; and additionally, they did not violate IGRA’s sole proprietary interest requirement. Since our review in January 2016, the party lender, the amount of the term loan, and certain financial terms, conditions, and covenants have been revised in documents #1–7.

After reviewing the revised 2017 Loan Documents, it is my opinion that they do not alter our June 7, 2011 and January 13, 2016 opinions that, collectively, the agreements are not management contracts requiring the approval of the Chairman and they do not violate IGRA’s sole proprietary interest requirement. In addition, this opinion is limited to the aforementioned 2017 Loan Documents (# 1 – 8) and does not include or extend to any other agreements not otherwise listed above.

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. 25 C.F.R. § 517.7(c). If you object on the grounds that the information qualifies as confidential commercial information subject to withholding under Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), please be advised that the information was voluntarily submitted and, as such, any request to withhold will be analyzed in accordance with the standard set forth in *Critical Mass Energy Project v. NRC*, 975 F.2d 871 (D.C. Cir. 1992). Any claim of confidentiality should also be supported with “a statement or certification by an officer or authorized representative of the submitter.” 25 C.F.R. § 517.7(c). Please submit any written objection to <FOIASubmitterReply@nigc.gov> within thirty (30) calendar days of the date of this letter. After this time elapses, the letter will be made public and objections will no longer be considered. *Id.* If you need any additional guidance regarding potential grounds for withholding,

Stephen R. Ward, Esq.

Re: Review of 2017 Loan Documents for the Quapaw Tribe of Oklahoma (O-Gah-Pah)

March 15, 2017

Page 3 of 3

please see the United States Department of Justice's *Guide to the Freedom of Information Act* at <http://www.justice.gov/oip/doj-guide-freedom-information-act-0>.

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

Sincerely,

A handwritten signature in black ink that reads "Michael Hoenig". The signature is written in a cursive style with a horizontal line extending to the right.

Michael Hoenig
General Counsel