



October 19, 2018

**Via email:** <[caw@williamscochrane.com](mailto:caw@williamscochrane.com)>  
**And First Class Mail**

Cheryl A. Williams, Esq.  
Williams & Cochrane LLP  
28581 Old Town Front Street  
Temecula, CA 92590

**Re: Review of the 2018 Transaction Documents for the Pauma Band of Mission Indians**

Dear Ms. Williams:

This letter responds to your September 17, 2018 request, on behalf of the Pauma Band of Mission Indians, for the National Indian Gaming Commission, Office of the General Counsel, to review certain financial transaction documents and to provide an opinion as to whether or not the submitted 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 these 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 2018 Transaction Documents"):

- *Amended and Restated Credit Agreement Dated as of [\_\_], 2018 among Pauma Band of Mission Indians (a/k/a The Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California and the Pauma-Yuima Band of Mission Indians), as the Borrower, Capital One, National Association, as Administrative Agent and the other Lenders party hereto, Capital One, National Association, as Sole Lead Arranger and Sole Bookrunner* (marked at bottom left as "SMRH:486980148.4" and at top right as "DRAFT 8/27/2018");
- Exhibit A to Credit Agreement, *Assignment and Assumption* (marked at bottom left as "SMRH:483847306.2" and at top right as "DRAFT 8/7/2018");
- Exhibit B to Credit Agreement, *Form of Compliance Certificate* (marked at bottom left as "SMRH:483908525.3" and at top right as "DRAFT 8/7/2018");
- Exhibit C to Credit Agreement, *Form of Loan Notice* (marked at bottom left as "SMRH:484060021.3" and at top right as "DRAFT 8/7/2018");

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- Exhibit D to Credit Agreement, *Form of Term Note* (marked at bottom left as “SMRH:483853450.3” and at top right as “DRAFT 8/7/2018”);
- *Springing Depository Waterfall Agreement* (marked at bottom left as “SMRH:487421447.2”);
- *Security Agreement* (marked at bottom left as “SMRH:483741324.3” and at top right as “DRAFT 8/7/2018”);
- *Deposit Account Control Agreement* (marked at bottom left as “SMRH:483966765.4” and at top right as “DRAFT 8/7/2018”);
- *Deposit Account Control Agreement* (marked at bottom left as “SMRH:487410889.2” and at top right as “DRAFT 8/7/2018”); and
- *Deposit Account Control Agreement* (marked at bottom left as “SMRH:487411968.2” and at top right as “DRAFT 8/7/2018”).

The 2018 Transaction Documents contain 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 located at <[www.nigc.gov](http://www.nigc.gov)>. Applying the same analysis here, it is my opinion that, collectively, the 2018 Transaction Documents are not management contracts and do not require the approval of the NIGC Chairman. It is also my opinion that they do not violate IGRA’s sole proprietary interest requirement.

This opinion shall not apply if the 2018 Transaction Documents change in any material way prior to closing or are inconsistent with assumptions made herein. Further, this opinion is limited to the aforementioned 2018 Transaction Documents and does not include or extend to any other agreements not submitted for review.

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](mailto: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, 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>>.

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

Sincerely,

A handwritten signature in blue 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