



November 2, 2015

**Via email: [sward@cwlaw.com](mailto:sward@cwlaw.com)  
and First Class Mail**

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**Re: Review of the 2015 Transaction Documents for the Quapaw Tribe of Oklahoma (O-Gah-Pah)**

Dear Mr. Ward:

This letter responds to your September 30, 2015 request, on behalf of the Quapaw Tribe of Oklahoma (O-Gah-Pah), for the Office of the General Counsel, National Indian Gaming Commission, to review certain financing documents and to provide an opinion as to whether the submitted financing documents are management contracts requiring the NIGC Chairman's approval pursuant to the Indian Gaming Regulatory Act of 1988. The Tribe also requested OGC's opinion as to whether the financing documents violate IGRA's requirement that a tribe have sole proprietary interest in its gaming operation.

In my review, I considered the following submissions (collectively, "the 2015 Transaction Documents"):

- *Downstream Development Authority of the Quapaw Tribe of Oklahoma (O-Gah-Pah), [ ]% Senior Secured Notes Due 2023, Indenture Dated as of [ ], 2015, BOKF, NA dba Bank of Oklahoma, Trustee (marked at bottom left as "LA\4289411.1" and at top right as "Confidential Draft 9/30/15");*
- *Security Agreement among Downstream Development Authority of the Quapaw Tribe of Oklahoma (O-Gah-Pah), as Assignor, Downstream Q Store, LLC, as Assignor, and BOKF, NA dba Bank of Oklahoma, as Collateral Agent, Dated as of [ ], 2015 (marked at bottom left as "LA\4289420.1" and at top right as "Confidential Draft 9/30/15");*
- *Control Agreement Regarding Deposit Accounts (marked at bottom left as "LA\4289421.1" and at top right as "Confidential Draft 9/30/15");*

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- *Intercreditor Agreement dated as of [\_\_], 2015 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, Downstream Q Store, LLC, as a Grantor, and the other Grantors from time to time party hereto* (marked at bottom left as “LA\4289414.1” and at top right as “Confidential Draft 9/30/15”);
- *Guaranty* (marked at bottom left as “LA\4289415.1” and at top right as “Confidential Draft 9/30/15”);
- *Grant of Security Interest in United States Trademarks* (marked at bottom left as “LA\4289417.1” and at top right as “Confidential Draft 9/30/15”);
- *Downstream Development Authority of the Quapaw Tribe of Oklahoma (O-Gah-Pah), \$215,000,000 [\_\_]% Senior Secured Notes due 2023, Purchase Agreement dated [\_\_], 2015* (marked at bottom left as “LA\4289412.1” and at top right as “Confidential Draft 9/30/15”); and
- *Dealer Manager and Solicitation Agent Agreement* (marked at bottom left as “LA\4289416.1” and at top right as “Confidential Draft 9/30/15”).

The 2015 Transaction Documents contain terms similar to other agreements that OGC has previously reviewed and analyzed. Some of these opinion letters may be found at [http://www.nigc.gov/Reading\\_Room/Management\\_Review\\_Letters\\_Declination\\_Letters.aspx](http://www.nigc.gov/Reading_Room/Management_Review_Letters_Declination_Letters.aspx). Applying the same analysis here, it is my opinion that, collectively, the 2015 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.

It is my understanding that the 2015 Transaction Documents are represented to be in substantially final form, and any further changes will not be material to OGC’s analysis. This opinion shall not apply if the 2015 Transaction Documents: (i) change in any material way prior to closing; (ii) are not executed; or (iii) are inconsistent with assumptions made herein. Further, this opinion is limited to the aforementioned 2015 Transaction Documents and does not include or extend to any other agreements not submitted for review.

I anticipate that this letter will be posted on the NIGC’s website. Prior to posting, the NIGC FOIA Officer will notify you and provide you with an opportunity to identify and request that information subject to the exemptions under the Freedom of Information Act be redacted or withheld. A list of the FOIA exemptions may be found at 5 U.S.C. § 552(b).

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

Sincerely,



Michael Hoenig  
General Counsel