



November 4, 2019

**Via email: <jcohen@jmandmplaw.com>
and First Class Mail**

James E. Cohen, Esq.
Maier Pfeffer Kim Geary & Cohen, LLP
1970 Broadway, Suite 825
Oakland, CA 94612

Re: Review of the 2019 Credit Documents for the Federated Indians of Graton Rancheria

Dear Mr. Cohen:

This letter responds to your September 30, 2019 request, on behalf of the Graton Economic Development Authority, an unincorporated governmental entity of the Federated Indians of Graton Rancheria, for the National Indian Gaming Commission, Office of the General Counsel, to review certain transaction documents and to provide an opinion as to whether or not these transaction 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 transaction 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 2019 Credit Documents"):

- *First Amendment to Credit Agreement* (marked at bottom left as "US-DOCS\110046727.9" and at top right as "NIGC Submission Version 9/25/19");
- *\$700,000,000 Revolving Credit and Term Loan Agreement among Graton Economic Development Authority, as Borrower, Federated Indians of Graton Rancheria, as the Tribe, and The Lenders Party Hereto, as Lenders, and Bank of America, N.A., as Administrative Agent and Collateral Agent, dated as of May 31, 2017, Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Joint Lead Arranger and Joint Bookrunner, Fifth Third Bank, as Joint Lead Arranger, Joint Bookrunner and Syndication Agent, U.S. Bank National Association, as Joint Lead Arranger, Joint Bookrunner and Syndication Agent, Wells Fargo Securities, LLC, as Joint Lead Arranger, Joint Bookrunner and Syndication Agent, Capital One, N.A., as Joint Lead Arranger, Joint Bookrunner and Documentation Agent, KeyBank National Association, as Documentation Agent* (marked at bottom left as "US-DOCS\110046845.11" and at top right as "NIGC Submission Version 9/25/19, Conformed Copy as Amended by that Certain First Amendment to Credit Agreement, Dated as of [_], 2019");

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- Exhibit E to Credit Agreement *Form of Compliance Certificate* (marked at bottom left as “US-DOCS\110607198.5” and at top right as “NIGC Submission Version 9-25-2019”);
- Updated Credit Agreement Schedules (marked at top right as “NIGC Submission Version 9-25-2019”);
- Updated Security Agreement Schedules (marked at bottom left as “US-DOCS\110986085.3” and at top right as “NIGC Submission Version 9-25-2019”).

The 2019 Credit 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>. Applying the same analysis here, it is my opinion that, collectively, the 2019 Credit 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 2019 Credit 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 2019 Credit Documents change in any material way prior to closing or are inconsistent with the assumptions made herein. Further, this opinion is limited to the aforementioned 2019 Credit 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. *See* 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 Four of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(4), please be advised that any withholding should be analyzed under the standard set forth in *Food Marketing Institute v. Argus Leader Media*, No. 18-481, 2019 WL 2570624, at *7 (U.S., June 24, 2019). Any claim of confidentiality should also be supported with “a statement or certification by an officer or authorized representative of the submitter.” *See* 25 C.F.R. § 517.7(d). Please submit any written objection to <FOIASubmitterReply@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. *Id.*

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

Sincerely,



Michael Hoenic
General Counsel