



June 29, 2022

***VIA EMAIL***

Kerry Patterson, Esq.  
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San Diego, CA 92101  
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**Re: Review of Financing Agreements for the Cahuilla Creek Restaurant & Casino Corporation**

Dear Ms. Patterson:

This letter responds to your request of May 27, 2022, for the National Indian Gaming Commission's Office of General Counsel to review a financing agreement between the Cahuilla Creek Restaurant & Casino Corporation (CCRC), a wholly owned subsidiary and instrumentality of the Cahuilla Band of Indians (Tribe), and Umpqua Bank. Specifically, you have asked for my opinion whether the agreement constitutes a management contract requiring the NIGC Chairman's approval under the Indian Gaming Regulatory Act (IGRA). You have also asked for my opinion whether the agreement violates IGRA's requirement that the Tribe have the sole proprietary interest in its gaming activity.

In my review, I considered the following submissions (Loan Documents) which are unexecuted, but represented to be in substantially final form:

1. Credit Agreement (draft as of 05/26/2022) (the "CCRC Credit Agreement")
  - a. Form of Revolving Credit Note (attached as Exhibit A-1 to the CCRC Credit Agreement) (draft as of 05/26/2022)
  - b. Form of Term Note (attached as Exhibit A-2 to the CCRC Credit Agreement) (draft as of 05/26/2022)
2. Security Agreement (draft as of 05/26/2022)
3. Tribal Agreement (draft as of 05/26/2022)

The Loan Documents contain terms similar to other agreements the Office of General Counsel has already reviewed and analyzed, which are available on the NIGC's website. Applying the same analysis here, it is my opinion that the Loan Documents are not a management contract 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.

Letter to Kerry Patterson, Esq.

Re: Review of Financing Agreements For the Cahuilla Creek Restaurant & Casino Corporation

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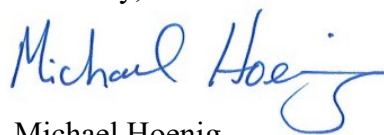
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It is my understanding that the draft is represented to be in substantially final form, and if the Loan Documents change in any material way prior to closing or is inconsistent with assumptions made herein, this opinion shall not apply. Further, this opinion is limited to the Loan Documents listed above. This opinion 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.<sup>1</sup> 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),<sup>2</sup> please be advised that any withholding should be analyzed under the standard set forth in *Food Marketing Institute v. Argus Leader Media*.<sup>3</sup> Any claim of confidentiality should also be supported with "a statement or certification by an officer or authorized representative of the submitter."<sup>4</sup> 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.<sup>5</sup> 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 NIGC Staff Attorney Logan Cooper at (503) 318-7524 or by email at [Logan.Cooper@nigc.gov](mailto:Logan.Cooper@nigc.gov).

Sincerely,



Michael Hoenig  
General Counsel

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<sup>1</sup> 25 C.F.R. § 517.7(c).

<sup>2</sup> 5 U.S.C. § 552(b)(4),

<sup>3</sup> 139 S. Ct. 2356 (2019).

<sup>4</sup> 25 C.F.R. § 517.7(d).

<sup>5</sup> *Id.*