



February 5, 2014

Timothy J. Kincaid, Esq.  
Kincaid Law Office and  
Fredericks Peebles & Morgan LLP  
1910 Mentor Avenue  
Painesville, OH 44077

Re: Review of financing documents for the Little Traverse Bay Band of Odawa  
Indians

Dear Mr. Kincaid:

This letter responds to your request on behalf of the Little Traverse Bay Band of Odawa Indians' (Tribe) request for the National Indian Gaming Commission's Office of General Counsel to review several agreements for the refinancing of existing debt related to the Tribe's gaming enterprise. The Tribe has asked for an opinion whether these agreements are management contracts requiring the NIGC Chair's approval under the Indian Gaming Regulatory Act (IGRA). The Tribe also has asked for an opinion whether the agreements 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 Financing Documents") all unexecuted, but represented to be in substantially final form:

- Draft Loan Agreement, dms.us.53112305.013;
- Draft Springing Depository Agreement, dms.us.53197329.013;
- Draft Alternative Dispute Resolution Letter, dms.us.53211223.04;
- Draft Deposit Account Control Agreement (Restricted After Instruction), dms.us.53229985.02;
- Draft Deposit Account Control Agreement (Restricted Immediately), dms.us.53230018.02; and
- Draft Security Agreement, dms.us.53207664.05

The Financing Documents contain terms similar to other agreements the Office of General Counsel has already reviewed and analyzed. *See* [www.nigc.gov/Reading\\_Room/](http://www.nigc.gov/Reading_Room/)

Management\_Review\_Letters.aspx. Applying the same analysis here, it is my opinion that the Financing Documents are not management contracts and do not require the approval of the Chair. It is also my opinion that they do not violate IGRA's sole proprietary interest requirement.

I understand that the Financing Documents are in substantially final form with respect to terms affecting this opinion. If such terms change in any material way or are inconsistent with assumptions made herein, this opinion shall not apply. Further, this opinion is limited to the Financing Documents listed above. This opinion does not include or extend to any other agreements.

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

If you have any questions, please contact NIGC Staff Attorney Sarah Walters at (202) 632-7003.

Sincerely,



Eric Shepard  
Acting General Counsel

cc: Kent Richey, Esq.  
Faegre Baker Daniels LLP  
(by email: [kent.richey@faegre.com](mailto:kent.richey@faegre.com))