



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JAN 14 1999

Honorable W. Ron Allen
Chairman
Jamestown S'Klallam Tribe
1033 Old Blyn Highway
Sequim, Washington 98382

Dear Chairman Allen:

On December 1, 1998, we received the Third Amendment to the Tribal-State Compact for Class III Gaming between the Jamestown S'Klallam Tribe (Tribe) and the State of Washington (State), dated November 25, 1998 (Amendment). We have completed our review of this Amendment and conclude that it does not violate the Indian Gaming Regulatory Act of 1988 (IGRA), Federal law, or our trust responsibility. Therefore, pursuant to delegated authority and Section 11 of IGRA, we approve the Amendment. The Amendment shall take effect when the notice of our approval, pursuant to Section 11 (d)(3)(8) of IGRA, 25 U.S.C. § 2710(d)(3)(8), is published in the FEDERAL REGISTER.

We approve the enclosed Amendment in spite of the language in Section 14.2, which apparently requires the Tribe to make charitable donations. IGRA provides that no State shall impose any tax, fee, charge, or other assessment upon an Indian tribe engaged in class III gaming activities, unless said tax, fee, charge, or other assessment is necessary to defray the cost of regulating class III gaming activities. 25 U.S.C. § 2710(d)(3)(C)(iii) and (d)(4). We believe that the charitable donations provision does not violate IGRA for several reasons. First, it appears that the Tribe has voluntarily entered into the agreement to make charitable donations, which are permissible payments under IGRA. 25 U.S.C. § 2710(b)(2)(8)(iv). There is nothing in the record that indicates that the State has required the Tribe to agree to Section 14.2 as a condition for negotiation of this Amendment. Had the record indicated otherwise, we would have had serious questions about whether Section 14.2 constituted a tax, fee, charge or other assessment in violation of IGRA.

Second, the Tribe maintains considerable discretion as to the charities to which it will make donations. Although, Section 14.2 does not expressly state the methodology for determining the recipients of charitable donations, the Tribe's original compact provides that the Tribal gaming ordinance shall set forth the

regulations concerning the types of bonafide nonprofit organizations or types of projects of such organizations that will benefit from the Tribe's charitable donations. The Amendment appears to ensure that the Tribe has great latitude in determining the organizations to which it will contribute. This factor also weighs heavily in favor of concluding that the contributions are voluntary in nature.

Third, Section 14.4.2 of the Amendment provides that the Tribe does not have to make charitable donations if the Tribe does not realize a profit from class III gaming. Moreover, Section 14.2 establishes the charitable donation rate as .5 percent of the Tribe's net win. Taken together, these two provisions ensure that any charitable donations made in a given year will not threaten the viability of the Tribe's gaming establishment.

We wish the Tribe and the State success in their economic venture.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Jones". The signature is fluid and cursive, with the first name "Kevin" written in a larger, more prominent script than the last name "Jones".

Assistant Secretary - Indian Affairs

Enclosure

Identical Letter Sent to: Honorable Gary Locke
Governor of Washington
Olympia, Washington 98504

THIRD AMENDMENT TO THE TRIBAL/STATE COMPACT
FOR CLASS III GAMING
BETWEEN
THE JAMESTOWN S'KLALLAM TRIBE
AND THE STATE OF WASHINGTON

WHEREAS, on February 19, 1993, the State of Washington and the Jamestown S'Klallam Tribe executed a Class III Gaming Compact pursuant to the Indian Gaming Regulatory Act of 1988, P.L. 100-497, codified at 25 USC Section 2701 et seq. and 18 USC Section 1166-1168, and

WHEREAS, the Class III Gaming Compact executed by the State and the Tribe, as well as later amendments thereto, were approved by the Secretary of the Interior and are in full force and effect (hereinafter referred to as the "Compact "), and

WHEREAS, pursuant to negotiations conducted in accordance with the Order dated September 26, 1997 in State of Washington v. The Confederated Tribes of the Chehalis Reservation, et al., No.C-95-1805-FVS (W.D. Wa.), the State and Tribe have agreed to amend Section IV. and to add Appendix X to the Compact to authorize the Tribal Lottery Systems as described in Appendix X.

NOW, THEREFORE, the Compact shall be and hereby is amended to read and state as follows:

1. Section IV.A.1.(a) is hereby amended by the addition of the following:

"IV. CLASS III GAMING

"A. Authorized Class III Games

"1. The Jamestown S'Klallam Tribe may conduct, subject to the terms and conditions of this Compact, any or all of the following games:

"(a) Blackjack ..., Sic-bo., and Tribal Lottery Systems.

Notwithstanding anything in this Compact which could be construed to be to the contrary, Tribal Lottery Systems operated in conformity with Appendix X are hereby authorized."

2. Appendix X is added in the form attached hereto and is hereby incorporated by reference.

IN WITNESS WHEREOF, the Jamestown S'Klallam Tribe and the State of Washington have executed this amendment to the Compact.

JAMESTOWN S'KLALLAM TRIBE

BY: W. Ron Allen
W. Ron Allen, Chairman

Dated: 11-25, 1998.

STATE OF WASHINGTON

BY: Gary Locke
Gary Locke, Governor

Dated: _____, 1998.

Consistent with 25 U.S.C.A. Sec. 2710 (d)(8), the Third Amendment to the Compact for Class III Gaming between the Jamestown S'Klallam Tribe and the State of Washington dated November 25, 1998, is hereby approved by the Assistant Secretary - Indian Affairs, United States Department of the Interior.

UNITED STATES DEPARTMENT OF THE INTERIOR

Kevin Gover

Kevin Gover
Assistant Secretary - Indian Affairs