



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240
JAN 14 1999

Honorable Bennie J. Armstrong
Tribal Chairman
The Suquamish Tribe
P.O. Box 498
Suquamish, Washington 98394

Dear Chairman Armstrong:

On December 1, 1998, we received the First Amendment to the Tribal-State Compact for Class III Gaming between the Suquamish Tribe (Tribe) and the State of Washington (State), dated November 30, 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) (B) of IGRA, 25 U.S.C. § 2710(d)(3)(B), 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)(B)(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 J. Jones". The signature is written in a cursive style with a large, sweeping initial "K".

an Affairs

Enclosure

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

FIRST AMENDMENT TO THE TRIBAL/STATE COMPACT
FOR CLASS III GAMING
BETWEEN
THE SUQUAMISH TRIBE
AND THE STATE OF WASHINGTON

WHEREAS, on January 26, 1995, the State of Washington and the Suquamish 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 was approved by the Secretary of the Interior and is 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 III. 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 III.A. is hereby amended by the addition of the following:

"III. NATURE, SIZE AND SCOPE OF CLASS III GAMING

"A. Scope of Class III Gaming Activities. A Tribal Gaming Operation may utilize in its Gaming Facility, subject to the provisions of this Compact, any or all of the following Class III activities:

"1. Blackjack;

" ...

"24. 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 Suquamish Tribe and the State of Washington have executed this amendment to the Compact.

SUQUAMISH TRIBE

BY Bonnie J. Armstrong
Bennie J. Armstrong, Chairman

Dated: 11-30, 1998.

STATE OF WASHINGTON

BY: Gary Locke
Gary Locke, Governor

Dated: 11-23, 1998.

Consistent with 25 U.S.C.A. Sec. 2710 (d)(8), the First Amendment to the Tribal-State Compact for Class III Gaming between the Suquamish Tribe and the State of Washington dated November 30, 1998, is hereby approved on this 14th day of January, 1999, 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