United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

FEB 18 2000

Honorable Thomas R. Ranfranz
Tribal President
Flandreau Santee Sioux Tribe
P.O. Box 283
Flandreau, South Dakota 57028

Dear President Ranfranz:

On January 5, 2000, we received the Compact between the Flandreau Santee Sioux Tribe (Tribe) and the State of South Dakota (State), dated December 27, 1999. We have completed our review of this Compact 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 Compact. The Compact 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 want to remind you that your Minimum Internal Control Standards must be in accordance with the National Indian Gaming Commission's (NIGC) regulations, set forth in 25 CFR Part 542.

Notwithstanding our approval of the Compact, Section 11(d)(1) of IGRA, 25 U.S.C. § 2710(d)(1), requires that tribal gaming ordinances be approved by the Chairman of the NIGC. Regulations governing approval of Class II and Class III gaming ordinances are found in 25 CFR §§ 501.1-577.15 (1998). Pursuant to IGRA and the regulations, even previously existing gaming ordinances must be submitted to the NIGC for approval when requested by the Chairman. The Tribe may want to contact the NIGC at (202) 632-7003 for further information to determine when and how to submit the ordinance for approval by the NIGC.

In addition, if the Tribe enters into a management contract for the operation and management of the Tribe's gaming facility, the contract must likewise be submitted to, and approved by the Chairman of the NIGC pursuant to Section 11(d)(9) of the IGRA, 25 U.S.C. § 2710(d)(9) and the NIGC's regulations governing management contracts. The Tribe may want to contact the NIGC for information on submitting the ordinance and the management contract for approval by the NIGC.

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

Sincerely,

/s/ Kevin Gover

Assistant Secretary - Indian Affairs

Enclosure

Identical Letter Sent to: Honorable William J. Janklow
Governor, State of South Dakota
Pierre, South Dakota 57501

cc: Great Plains Regional Director w/copy of approved Compact
National Indian Gaming Commission w/copy of approved Compact
Twin Cities Field Solicitor w/copy of approved Compact
SD United States Attorney w/copy of approved Compact

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. § 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Gaming Compact between the Flandreau Santee Sioux Tribe and the State of South Dakota, which was executed on December 27, 1999.

DATES: This action is effective March 13, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: February 18, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–6009 Filed 3–10–00; 8:45 am]

BILLING CODE 4310–02–P

GAMING COMPACT
BETWEEN THE
FLANDREAU SANTEE SIOUX TRIBE
AND THE
STATE OF SOUTH DAKOTA

This Compact is made and entered into as of the 27th day of December, 1999, by and between the Flandreau Santee Sioux Tribe (Tribe), and the State of South Dakota (State).

WHEREAS, the Tribe is a federally recognized Indian Tribe located in Moody County South Dakota; and

WHEREAS, Article III of the Flandreau Santee Sioux Constitution provides that the governing body of the Tribe shall be the Executive Committee; and

WHEREAS, Article VIII, Section 1 of the Constitution authorizes the Executive Committee to negotiate with State government; and

WHEREAS, the State has, through constitutional provisions, S.D. Constitution Article III, section 25, and legislative acts, authorized limited card games and slot machines to be conducted in Deadwood, South Dakota; and

WHEREAS, the Congress of the United States has enacted the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §2701, et seq. (1988) which permits Indian tribes to operate Class III gaming activities on Indian reservations pursuant to a Tribal-State Gaming Compact entered into for that purpose; and

WHEREAS, the Tribe operates gaming activities in accordance with a Tribal/State Gaming Compact entered into on June 26, 1990, at the Royal River Casino on the Flandreau Santee Sioux Indian Reservation in Moody County, South Dakota; and

WHEREAS, the Tribe and the State desire to negotiate a revised Tribal State Gaming Compact under the terms of

Section 11 of said Tribal/State Compact to continue operation of such gaming activities consistent with the public policy of the State and the Tribe;

NOW, THEREFORE, in consideration of the foregoing, the Tribe and the State hereto do promise, covenant, and agree as follows:

1. Declaration of Policy

In the spirit of cooperation, the Tribe and the State hereby set forth in joint effort to continue to implement the terms of the Indian Gaming Regulatory Act. The State recognizes the positive economic benefits that gaming provides to the Tribe. The Tribe and the State recognize the need to insure that the health, safety and welfare of the public and the integrity of the gaming industry in South Dakota and Indian Country is protected.

2. Purpose and Scope of Compact

This Compact and the Tribe's Class III Gaming Ordinance and gaming regulations shall govern the regulation and operation of Class III gaming conducted on the Flandreau Santee Sioux Reservation. The purpose of this Compact is to provide the Tribe with the opportunity to operate Class III gaming activities in a manner that will benefit the Tribe economically, that will insure fair operation of the games, and that will minimize the possibility of corruption.

3. Geographic Location

The Tribe shall conduct all gaming activities pursuant to this Compact at the following location: at the Royal River Casino located at the NW corner of the SW ¼ of SW ¼ of T107N, R48W, Section 28 of Tribal Trust Land in Moody County, South Dakota.

4. Type of Gaming Permitted

4.1 The Tribe shall operate Class III Gaming as that term is defined in the Indian Gaming

Regulatory Act and its regulations, and as authorized by South Dakota state law which the parties hereto acknowledge includes slot machines, blackjack, and pari-mutuel wagering. The Tribe shall be permitted to operate such other gaming as may be authorized by state law after the date of the signing of this Compact, upon written amendment of this Compact. For the purposes of this Compact, the terms "blackjack" and "slot machines" are defined SDCL 42-7B-4 (3) and 42-7B-4(21), respectively, except the term "slot machines" does not include "video lottery machines" as defined by SDCL 42-7A-1 (13).

4.2 The Tribe shall operate pari-mutuel wagering on horses and dogs pursuant to the terms of this Compact and the Tribe's gaming regulations and ordinances, which ordinances and regulations shall be at least as stringent as those adopted by the State of South Dakota in SDCL 42-7-56 and ARSD 20:04:15, et.seq. and 20:04:15.01, et.seq. for greyhound racing and in SDCL 42-7-56 and ARSD 20:04:30, et.seq. for horse racing. The Tribe may operate pari-mutuel wagering on horse and dog racing occurring within or without the United States.

4.3 All equipment used by the Tribe, including electrical or mechanical tote board devices, in conducting pari-mutuel wagering shall be of the type and meet the standards for size and information display set forth by the South Dakota Commission on Gaming. The South Dakota Commission on Gaming agents shall be authorized to inspect (not to include audits) the equipment used by the Tribe in conducting pari-mutuel wagering to determine that it is in accordance with the laws and rules adopted in this Compact. Any periodic inspection of pari-mutuel wagering equipment shall only occur if the state inspector is accompanied by a member of the Tribal Gaming Commission, or a designee. Any such inspection shall be carried out in

a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming Commission and the South Dakota Commission on Gaming shall be notified of all such inspections and the results of those inspections. If the results of any such inspection reveal that the equipment fails to meet applicable standards, the Tribe will not use such equipment until the equipment meet the applicable standards.

4.4 No bets shall be placed by a runner on behalf of any other bettor.

5. Operation of Gaming

5.1 The Tribe shall operate its gaming activities pursuant to this Compact, the Tribe's Class III Gaming Ordinance and tribal gaming regulations which have been enacted by the Tribe's Executive Committee and Gaming Commission. The Tribe agrees that its ordinances and regulations shall be at least as stringent as those adopted by the State of South Dakota in SDCL ch. 42-7B and ARSD 20:18, et seq, as those statutes and regulations now exist and as they may be amended, augmented or superceded. All such ordinances and regulations shall be made available to the State, upon or before their effective date.

5.2 The Gaming activities conducted under this Compact shall be regulated by a Tribal Gaming Commission which shall have primary responsibility for the regulation of gaming activities, the issuance, suspension and revocation of gaming licenses, the inspection of all premises where gaming is conducted and otherwise be responsible for enforcing the Tribe's gaming ordinances and regulations. The composition, qualifications, and terms of the Tribal Gaming Commission shall be set by the Tribe's Class III Gaming Ordinance.

5.3 Disciplinary action for misconduct by licensees

The following procedures shall govern disciplinary action for misconduct by licensees:

(a) At any time at which an officer of the Tribe, or any gaming licensee of the Tribe becomes aware of a potential violation of this Compact or a gaming rule or regulation adopted by the Tribe, he shall report the potential violation to the Tribal Gaming Commission. The Tribal Gaming Commission shall in turn report that violation to the Executive Secretary of the South Dakota Commission on Gaming within five days after it is determined both that (1) it is more likely than not that the violation has occurred and (2) the violation involves potential cheating of a customer at a casino or involves such conduct as would disqualify a licensee from further gaming licensing by the State of South Dakota.

(b) If the Executive Secretary of the South Dakota Commission on Gaming receives a report under section (a) or otherwise becomes aware of a potential violation reportable under (a), and if he concludes that the disciplinary action undertaken by the Tribal Gaming Commission is inadequate, a more severe penalty shall be imposed by the Tribal Gaming Commission as requested by the Executive Secretary of the South Dakota Commission on Gaming.

(c) The foregoing process does not preempt or take the place of any other civil or criminal remedy which might be imposed against a licensee under applicable provisions of law.

6. Criminal Jurisdiction

All criminal matters arising from or related to Class III gaming shall be dealt with according to applicable Tribal, State, or Federal law. Nothing in this Compact shall deprive the Courts of the Tribe, the United States, or the State of South Dakota of such criminal jurisdiction as each may enjoy under applicable law.

7. Civil Jurisdiction

All civil matters arising from or related to Class III gaming shall be dealt with according to applicable Tribal, State, or Federal law. Nothing in this Compact shall deprive the Courts of the Tribe, the United States, or the State of South Dakota of such civil jurisdiction as each may enjoy under applicable law. Nothing in this provision shall be construed to be a waiver of the sovereign immunity of the Flandreau Santee Sioux Tribe.

8. Licensing of Gaming Operators and Employees

All individuals who operate or manage a gaming operation under this Compact shall be licensed by the Tribal Gaming Commission. All individuals employed to work directly with the gaming operation shall be licensed by the Tribal Gaming Commission.

The Tribal Gaming Commission shall have primary responsibility for the licensing of individuals who operate or manage a gaming operation or who are employed in the tribal gaming operation. Any person seeking to be licensed hereunder shall first submit an application to the Tribal Gaming Commission which application shall include a written release by the applicant authorizing the State to conduct a background investigation of the applicant on behalf of the Tribal Gaming Commission. The State shall agree to conduct an investigation of the applicant on behalf of the Tribal Gaming Commission, upon receipt of the executed release and payment of the fee as

provided in the South Dakota Commission on Gaming rules and regulations for such investigations. The State shall provide the Tribal Gaming Commission with a written report regarding each applicant within 30 days of the receipt of the request and fee or as soon thereafter as practical.

The Tribal Gaming Commission shall not issue a license to any unsuitable applicant. A suitable applicant is one who is determined suitable by the Tribal Gaming Commission according to tribal ordinance and by the South Dakota Gaming Commission pursuant to SDCL ch. 42-7B and the South Dakota Commission on Gaming rules and regulations.

Should the Tribal Gaming Commission disagree with the State's determination on suitability, the Tribal Gaming Commission may invoke the following arbitration procedure:

The dispute shall be determined by a three-person binding Arbitration Board. One member of the Board shall be the Chairman of the Tribal Gaming Commission, one member shall be the Chairman of the South Dakota Commission on Gaming, and one member shall be jointly selected by those two persons within 14 days of the invocation of the arbitration procedure. The Arbitration Board shall determine whether the applicant is deemed suitable, taking into consideration the ordinances and regulations adopted by the Tribal Gaming Commission and the statutes and rules adopted by the State of South Dakota. The Arbitration Board shall further decide the suitability issue in the best interest of the public. If permitted by law, either the State or the Tribe may appeal the arbitration decision to federal district court.

9. <u>Regulatory Standards for Gaming</u>

In recognition of the valid public policy interests of the State, which are similarly appreciated as desirable by the Tribe, the following regulatory standards are established

for gaming operated and played at the establishment referred to in paragraph 3.

9.1 No Credit Extended

All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by the gaming facility operated pursuant to this Compact, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not apply to credits won by players who activate play on gaming machines after inserting coins or currency into the game, and shall not restrict the right of the Tribe or any other person to offer check cashing or to install or accept bank card or credit card transactions in the same manner as would be normally permitted at any retail business within the State.

9.2 Minimum Age for Players

Any participant in a game authorized by this Compact shall be twenty-one (21) years of age or older at the time of participation. No licensee may permit any person who is less than twenty-one (21) years of age to participate in a game authorized by this Compact. A violation of this provision shall subject the participant or licensee to punishment under applicable Tribal or State law.

9.3 Technical Standards for Gaming Devices

All gaming machines operated and played pursuant to this Compact shall meet or exceed the hardware and software specifications set forth by the South Dakota Commission on Gaming and SDCL 42-7B-43 prior to play. Gaming machine prototypes will be tested and approved prior to play by the State according to State procedures and by the Tribe according to Tribal procedures.

9.4 Approval of Gaming Device

No gaming device shall be operated on the Flandreau Santee Sioux Reservation unless:

The gaming device is purchased, leased or acquired from a manufacturer or distributor licensed to sell, lease or distribute gaming devices by the State, pursuant to SDCL ch. 42-7B and ARSD 20:18, and

The gaming device or a prototype thereof, has been tested, approved and certified by a gaming test laboratory as meeting the requirements and standards of this Compact. For purposes of this Compact, a gaming test laboratory shall be a laboratory agreed to and designated in writing by the South Dakota Commission on Gaming and the Tribal Gaming Commission.

9.5 Number of Gaming Devices

The number of slot machines permitted to be operated under this Compact shall be limited to 250. There shall be no limits placed on the number blackjack tables that may be operated.

It is acknowledged between the parties hereto that the gaming device number limit is based upon limits set by state law pursuant to a formula agreed to by the parties under the 1990 Compact. If the gaming device limits set by state law shall increase, the Tribe may request an increase in the numbers allowed to it and the state and the Tribe shall be required to negotiate in good faith with regard to the request. The parties acknowledge that a request to renegotiate the number of devices under this Section will allow the state to raise any matter which it deems appropriate and which could be raised in a negotiating session

under the terms of the federal Indian Gaming Regulatory Act.

The Tribe shall be entitled to have up to ten (10) gaming devices which are out of service as a result of mechanical problems. These additional devices are only to be used in such an event and shall not be operated in addition to the maximum number of devices authorized by this provision. These additional devices shall meet the requirements of 9.3 of this Compact.

9.6 Inspection Procedure

South Dakota Commission on Gaming agents shall be authorized to inspect (not to include audits) the tribal gaming establishment in accordance with the laws and rules adopted in the Compact. Any periodic inspection of gaming machines shall only occur if the state inspector is accompanied by a member of the Tribal Gaming Commission, the Executive Secretary of the Tribal Gaming Commission, or a designee. Any such testing shall be carried out in a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming Commission shall be notified of all such testing and the results of such testing.

In addition to the gaming machine inspections authorized above, any inspections of other gaming devices and the tribal gaming establishment by state inspectors shall be limited to a maximum of 100 hours per year plus travel. These inspections are specifically authorized to be unannounced and may be in the nature of an undercover inspection. The Tribal Gaming Commission and the South Dakota Commission on Gaming shall be notified of the results of such inspections. Any violations detected pursuant to this paragraph shall be enforced consistent with the procedure contained in the above section entitled

Disciplinary Action for Misconduct by Licensees or applicable provisions of criminal or civil law.

9.7 Remedies for Non-Complying Gaming Devices

Upon inspection, the State may designate gaming devices which it believes do not comply with tribal gaming laws. The machine shall immediately be removed temporarily from play or sealed. Within five days of receipt of such written designation, the Tribe shall either:

(1) accept the finding of non-compliance, remove the gaming devices from play, and take appropriate action to ensure that the Tribe, manufacturer, distributor or other responsible party cures the problem; or

(2) contest the finding of non-compliance before the Arbitration Board as provided in paragraph 8 above. In the event the Arbitration Board finds that the gaming device is noncomplying, such device shall be removed from play. Gaming devices removed from play pursuant to this section may be returned to play only after such gaming device comes into compliance with the provisions of 9.3 herein.

Nothing in this section shall limit the rights or remedies available to the parties under any other provision of this Compact or under the Indian Gaming Regulatory Act.

9.8 Limit on Wagers

Bet limits under this Compact shall conform to the current bet limits established under South Dakota State law.

9.9 Minimum Standards

The Tribe has adopted, and agrees to adopt, gaming ordinances and regulations to regulate gaming activities under this Compact. The ordinances and regulations shall be at least as stringent as those statutes and administrative rules adopted by the State of South Dakota to regulate gambling in Deadwood, South Dakota. The Tribe shall furnish the State with copies of such ordinances and regulations and shall advise the State of any amendment, revision or rescission of the gaming regulations. The Tribe agrees that in no event shall it amend, revise or rescind any gaming regulations which would result in the tribal regulations being less stringent than the statues and rules adopted by the State of South Dakota.

10. Accounting and Audit Procedures

The Tribe shall adopt accounting standards which meet or exceed those standards established in Chapter 20:18:22 of the South Dakota Rules and Regulations for Limited Gaming.

The Tribe shall conduct independent audits of the gaming operation and provide copies to the State. At the request of the Tribe and at the Tribe's expense, the State may at its discretion audit the tribal operation.

The Tribe shall engage in an independent certified public accountant to audit the books and records of all gaming operations conducted pursuant to this Compact and shall make copies of the audit and all current internal accounting and audit procedures available to the State upon written request. The Tribe shall permit the State to consult with the auditors before or after any audits or periodic checks on procedures which may be conducted by the auditors, and shall allow the State to submit written or oral comments or suggestions for improvements regarding the accounting and audit procedures.

Within 30 days of receipt of any written or oral comments, the Tribe shall :

(a) accept the comments and modify the procedures accordingly; or
(b) respond to the comments with counter proposals or amendments.

11. Duration

This Compact shall deemed to be executed on the date of the last signature of the Governor of the State and the President of the Tribe. This Compact shall be deemed to be effective upon execution, approval by the United States and publication of that approval in the Federal Register pursuant to the Indian Gaming Regulatory Act.

This Compact shall be in effect for a (3) three year period dating from the date of execution, and subject to the terms of this section.

At any time between one year prior to the three-year anniversary of the execution of the Compact and 180 days prior to the three-year anniversary of the execution of the Compact, either party to the Compact may give notice to the other party of provisions they believe require review or amendment. Such notice shall be in writing and shall be sent by certified mail to the Governor of the State or President of the Tribe at the addresses listed in section 12.4.

Upon receipt of such notice, the parties shall engage in good faith efforts, to resolve the issues identified in the notice. The parties shall have one hundred eighty days to negotiate and all further procedures and remedies available under the Indian Gaming Regulatory Act shall apply. The State and the Tribe may agree in writing to extend the 180-day period for any further period of up to 180 days without prejudice to the rights of either party.

In the event the parties are unable to resolve the issues identified in the notice within the

time frames set forth above, this Compact shall terminate and the parties shall be subject to the procedures provided for in the federal Indian Gaming Regulatory Act.

In the event that no notice is timely given as set forth above, this Compact shall be automatically renewed for a period of three years dating from the three-year anniversary of the execution of the Compact. Subject to the other terms of this Compact, it may be indefinitely renewed at three year intervals in this manner.

Either party may terminate this Compact upon a substantial breach by the other party regardless of any other provision of this Compact. Upon identification of what either party believes to be a substantial breach of the terms of this Compact, such party shall notify the other party in writing, via certified mail, return receipt requested, as to the nature of the substantial breach. The party issuing the notice of noncompliance shall refrain from terminating this Compact until 30 days have elapsed from receipt of notice of noncompliance by the other party.

12. General Provisions

The following conditions shall be applicable throughout the term of this Agreement:

12.1 The Tribe hereto agrees that none of the funds generated by gaming conducted under this Compact shall be used by the Tribe or its agents to influence the outcome of any local, state or federal election conducted within the State of South Dakota.

12.2 The parties hereto agree that in the event that a dispute arises as to an interpretation of the provisions of this Compact, in any of the rights, responsibilities or obligations attaching to the parties hereto, either party may commence an action in federal district court for the purpose of resolving such dispute.

12.3 The parties hereto agree that the Tribe will be responsible for the reimbursement of the costs incurred by the State and associated with the State's performance of its responsibilities as provided for herein. This provision is to provide for the reimbursement of the costs and expenses of the State in performing its responsibilities as provided herein. The hourly rate to be paid to the State for its services is Fifty dollars ($50.00). Travel, per diem, and other expenses shall be paid to the State at the rates set out in South Dakota Administrative Rules.

12.4 Unless otherwise indicated differently, all notices, payments, requests, reports, information or demand which any party hereto may desire or may be required to give to the other party hereto, shall be in writing and shall be personally delivered or sent by telegram or first class certified or registered United States Mail, postage prepaid, return receipt requested, and sent to the other party at its address appearing below or such other address as any party shall hereinafter inform the other party hereto by written notice given as aforesaid:

Notice to the Tribe shall be sent to:

President's Office
P.O. Box 283
Flandreau, SD 57028

Notice to the State shall be sent to:

Governor's Office
500 E. Capitol
Pierre, SD 57501

All notices, payments, requests, reports, information or demand so given shall be deemed effective upon receipt or if mailed, upon receipt or the expiration of the third

day following the day of mailing, whichever occurs first, except that any notice of change of address shall be effective only upon receipt by the party to whom said notice is addressed.

12.5 This agreement is the entire Agreement between the parties and supersedes all prior agreements whether written or oral, with respect to the subject matter hereof. Neither this Agreement nor any provision herein may be changed, waived, discharged, or terminated orally, but only by an instrument in writing.

12.6 This Agreement may be executed by the parties hereto in any number of separate counterparts with the same effect as if the signatures hereto and hereby were upon the same instrument. All such counterparts shall together constitute but one and the same documents.

12.7 The State and/or the Tribe may not assign any of its respective right, title, or interest in this Agreement, nor may the State and/or the Tribe delegate any of its respective obligations and duties under this Agreement, except as expressly provided herein. Any attempted assignment or delegation in contravention of the foregoing shall be null and void.

12.8 Nothing in this Compact shall be construed to limit the rights or remedies available to the parties hereto under the Indian Gaming Regulatory Act.

12.9 This Compact shall not be construed to waive or diminish the sovereign immunity of the Tribe or the State of South Dakota, except as specifically provided by the provisions of 12.2.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

FLANDREAU SANTEE SIOUX TRIBE

Dec 27th 1999 BY: _____
(Date)

Thomas R. Ranfranz,
Tribal President

STATE OF SOUTH DAKOTA

12-22-99 BY: _____
(Date)

William J. Janklow, Governor
State of South Dakota

BUREAU OF INDIAN AFFAIRS

FEB 18 2000 BY: _____
(Date)

Assistant Secretary