United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUL 6 1992

Honorable Judy Knight-Frank
Chairperson, Ute Mountain Ute Tribe
Towaoc, Colorado 81334

Dear Chairperson Knight-Frank:

On May 22, 1992, we received the original tribal-state compact, between the Ute Mountain Ute Tribe and the State of Colorado, accompanied by Tribal Resolution Number 3873 authorizing the tribal chairman to enter into the compact. Pursuant to my delegated authority and Section 11 of the Indian Gaming Regulatory Act (IGRA), (P.L. 100-497; 25 U.S.C. 2710 et seq.) we approve the compact.

Since the intent of the language in Section 9 and 11 is not completely clear, we offer our views on the two sections. First, we interpret the jurisdiction language in Section 9 on pp. 23-24, as it pertains to Federal jurisdiction, as restating the IGRA and not intending to modify, limit or expand the jurisdiction of the Federal court. Second, we interpret the last sentence of Section 11(b) as imposing income tax only on non-Indians who have won or earned the income on their own. It does not authorize a tax on income which is otherwise "generated" or earned by non-Indians but is actually income to the Tribe or some other Indian entity which is not subject to taxation by the State.

The compact shall take effect when notice of our approval, pursuant to Section 11(d)(3)(B) of the IGRA, is published in the FEDERAL REGISTER.

For your information, Section 11(d) of the IGRA requires the Chairman of the National Indian Gaming Commission (Commission) to approve tribal ordinances authorizing Class III gaming. The Commission does not yet have final regulations governing such approvals. When those regulations are issued, you must submit the tribal ordinance to the Commission.

We wish the Tribe and the State success in this economic endeavor.

Sincerely,

/S/ Eddie F. Brown

Assistant Secretary - Indian Affairs

Enclosure

Similar letter to: Honorable Roy Romer
Governor of Colorado
State Capitol
Denver, Colorado 80202

cc: Albuquerque Area Director with copy of approved compact
Ute Mountain Agency Superintendent with copy of approved compact
National Indian Gaming Commission with copy of approved compact
Penny Coleman, SOL
Albuquerque Field Solicitor
Colorado United States Attorney

DEPARTMENT OF THE INTERIOR

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved tribal-state compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), 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 (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved The Ute Mountain Ute Tribe and the State of Colorado Gaming Compact executed on April 30, 1992.

DATES: This action is effective July 10, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 "C" Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ronal Eden, Bureau of Indian Affairs, Washington, DC 20240, (202) 208–3463.

Dated: July 6, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–16188 Filed 7–9–92; 8:45 am]

BILLING CODE 4310–02–M

THE UTE MOUNTAIN UTE TRIBE AND THE STATE OF COLORADO GAMING COMPACT

INTRODUCTION

THIS COMPACT is entered into pursuant to the Indian Gaming Regulatory Act, Pub. L. 100-497, codified at 25 U.S.C. §§ 2701-2721 (1988) and 18 U.S.C. §§ 1166-1168 (1988) (hereafter the "Act").

PARTIES

THIS TRIBAL-STATE COMPACT is made and entered into by and between the UTE MOUNTAIN UTE TRIBE, a federally-recognized Indian Tribe, possessed of all sovereign powers and rights thereto pertaining; and the STATE OF COLORADO, a sovereign State of the United States, with all rights and powers thereto pertaining.

DECLARATION OF POLICY AND PURPOSE

The Act provides that the conduct of Class III gaming activities on Indian lands is to be governed by a Tribal-State compact that is agreed upon through negotiations by the parties. Each party to this Compact has discussed with the other party its respective public or Tribal policies relating to gaming, but such

policies are not set forth in this Compact.

SECTION 1. TITLE. This document shall be known as and may be cited as "The Ute Mountain Ute Tribe and the State of Colorado Gaming Compact."

SECTION 2. DEFINITIONS. For purposes of this Compact:

(a) "Act" or "I.G.R.A." means the Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. § 2701 et seq.

(b) "Blackjack" means a banking card game commonly known as "21" or "blackjack" played by a maximum of seven players in which each player bets against the dealer. The object is to draw cards whose value will equal or approach twenty-one without exceeding that amount and win amounts bet, payable by the dealer, if the player holds cards more valuable than the dealer's cards.

(c) "Class III Gaming" means all forms of gaming that are not Class I or II gaming as defined in the Act at 25 U.S.C. § 2703(6) and (7), and only those activities authorized under Section 3 of this Compact.

(d) "Compact" means the Ute Mountain Ute Tribe and the State of Colorado Gaming Compact.

(e) "Gaming device" or "gaming equipment" means any equipment or mechanical, electromechanical, or electronic contrivance,

component, or machine used remotely or directly in connection with gaming or any game. The term includes, but is not limited to, a slot machine, video gaming device, poker table, blackjack table, or the cards used to play poker and blackjack.

(f) "Gaming employee" means any natural person employed in the operation or management of the gaming operation, whether employed by the Tribe or by any enterprise providing onsite services to the Tribe within the gaming facility, including, but not limited to, gaming operation managers and assistant managers; accounting personnel; surveillance personnel; cashier supervisors; dealers; box men; floormen; pit bosses; shift bosses; cage personnel; collection personnel; and any other natural person whose employment duties require or authorize access to restricted areas of the gaming facility not otherwise open to the public.

(g) "Gaming facility or facilities" means the room or rooms on Indian lands in which Class III gaming as authorized by this Compact is conducted.

(h) "Gaming operation" means the enterprise operated by the Tribe on Indian lands for the conduct of any form of Class III gaming in any gaming facility.

(i) "Indian lands" means all lands within the limits of the Ute Mountain Ute Indian Reservation; and any lands title to which is either held in trust by the United States for the benefit of the Ute Mountain Ute Indian Tribe, or is held by the Ute Mountain

Ute Indian Tribe subject to restriction by the United States against alienation and over which the Ute Mountain Ute Indian Tribe exercises governmental power; and all other lands of the Ute Mountain Ute Indian Tribe acquired in trust by the United States after October 17, 1988, if any, which lands satisfy the conditions of 25 U.S.C. § 2719.

(j) "Key employee" means any executive, employee, or agent of a gaming operation having the power to exercise a significant influence over decisions concerning any part of the gaming operation.

(k) "Minority interest" means an ownership interest of five percent or more by a non-Tribal member in a Tribal gaming operation, gaming facility, or management company.

(l) "Party" or "parties" means the Ute Mountain Ute Indian Tribe or the State of Colorado.

(m) "Poker" means a card game played by players who are dealt cards by a nonplayer dealer. The object of the game is for each player to bet the superiority of such player's hand and win the other players' bets by either making a bet no other player is willing to match or proving to hold the most valuable cards after all the betting is over. Poker includes but is not limited to draw, stud, low ball, or any combination thereof.

(n) "Principal" means with respect to any gaming operation: (i) each of its officers and directors; (ii) each of its prin-

cipal management employees, including any chief executive officer, chief financial officer, chief-operating-officer, or general manager; (iii) each of its owners or partners if an unincorporated business; (iv) each of its shareholders who owns a minority interest; and (v) each person other than a financial institution who has provided financing for the gaming operation constituting five percent or more of the total financing of the gaming operation.

(o) "Slot machine" means any mechanical, electrical, video gaming device, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, or redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner.

(p) "State" means the State of Colorado, its authorized officials, agents, and representatives.

(q) "State certification" means the licensing process utilized by the Colorado Limited Gaming Control Commission and the Colorado Division of Gaming required by this Compact.

(r) "State Gaming Agency" means the Colorado Limited Gaming Control Commission and the Colorado Division of Gaming.

(s) "Tribal Gaming Commission" means the Ute Mountain Ute Tribal Gaming Commission or such other agency of the Tribe as the Tribe may from time to time designate by written notice to the State Gaming Agency as the single tribal agency responsible for regulatory oversight of Class III gaming as authorized by this Compact.

(t) "Tribal Law Enforcement Agency" means the police force of the Ute Mountain Ute Tribe established and maintained by the Tribe pursuant to the Tribe's powers of self-government to carry out law enforcement within Indian lands, or such other entity acting in the same capacity as determined by the Tribe.

(u) "Tribe" means the Ute Mountain Ute Tribe, its authorized officials, agents, and representatives.

SECTION 3. NATURE AND SCOPE OF CLASS III GAMING.

(a) Authorized Class III Gaming Activities. The tribal gaming operation may operate in its gaming facilities any Class I and II game in keeping with the requirements of the Act and, subject to the provisions of this Compact, any or all of the following Class III activities:

(i) Blackjack;

(ii) Poker;

(iii) Slot machines;

(iv) Keno.

(b) Forms of Payment. All payment for wagers made in gaming conducted by the Tribe in its gaming operation shall be made by cash, chips, or tokens. The gaming operation shall not extend credit. Chips or tokens may be purchased using cash, checks, or travelers checks.

(c) Wagering Limitations. The maximum wager authorized for any play on a slot machine shall be five dollars. No blackjack, keno, or poker wager shall exceed five dollars.

(d) Future Litigation. The parties have not been able to resolve all issues relating to Class III gaming. Accordingly, litigation may be initiated which could affect the terms of this Compact. In such case the parties shall negotiate, adopting the procedures of the Act as provided in Section 13(c) of this Compact, appropriate new terms based upon the results of the litigation.

(e) Hours of Operation. The Tribe shall schedule hours to best comply with market conditions and may operate any day of the week. Gaming operations may be permitted at any time, provided that the State Gaming Agency shall have the right to audit and inspect. While such audit and inspection activities may occur during gaming operations, they shall not unreasonably interfere

with gaming operations.

(f) Prohibition on Minors. No person under the age of twenty-one shall participate in any gaming activity or gaming operation authorized by this Compact, except that minors may be present in gaming areas and may be employed in food, beverage, and maintenance.

(g) Operation As Part Of A Network. At the option of the Tribe, Tribal gaming may be conducted as part of a network with gaming on the Southern Ute Indian Reservation with an aggregate prize or prizes; provided that an electronic game of chance capable of bidirectional communication with external associated equipment must utilize communication protocol which insures that erroneous data or signals will not adversely affect the operation of the game and that the State Gaming Agency shall test and verify the operations of said network pursuant to mutually agreed upon standards to be set forth in Appendix A of this Compact.

(h) Prohibition on Firearms. The possession of firearms within the gaming facility is prohibited, except for Federal, State, local, and Tribal law enforcement officials.

SECTION 4. LICENSING AND CERTIFICATION REQUIREMENTS.

(a) Gaming Operation Facility, and Equipment. Each Tribal gaming operation, gaming facility, and gaming device or equipment

authorized by this Compact shall be licensed by the Tribal Gaming Commission and inspected by the State prior to commencement of operation, and at least annually thereafter. Verification of compliance with the requirements of this Compact shall be made by the State Gaming Agency and the Tribal Gaming Commission through a joint pre-operation inspection. Any equipment approved for use in the State of Colorado shall be approved equipment for use at a Tribal gaming facility. All gaming equipment shall meet the specifications contained in Appendix A.

(b) Gaming Employees. Every support and key gaming employee shall be licensed by the Tribal Gaming Commission and every support and key gaming employee who is a non-Tribal member shall be certified by the State prior to commencement of employment. Such license and certification shall be renewed annually thereafter.

(c) Management Companies. Any management company, including its principals, engaged by the Tribe to assist in the management or operation of any gaming facility or gaming operation shall be subject to the licensing requirements of the Tribal Gaming Commission and the National Indian Gaming Commission, and shall be required to obtain State certification prior to initiating gaming operations. Such license and certification shall be renewed annually thereafter.

(d) Minority Interests. Any party intending to hold a

minority interest in any gaming facility or gaming operation shall be subject to the licensing requirements of the Tribal Gaming Commission and shall be required to obtain State certification prior to the purchase of said minority interest and annually thereafter.

(e) Manufacturers and Suppliers of Slot Machines. Each manufacturer and importer of slot machines shall be subject to the licensing requirements of the Tribal Gaming Commission and shall be required to obtain a State certification prior to the sale or importation of any slot machine. If the manufacturer or importer is currently licensed by the State under the "Limited Gaming Act of 1991," such license shall be prima facie evidence that the manufacturer or importer is qualified for initial State certification. Such license and certification shall be renewed annually thereafter.

SECTION 5. TRIBAL LICENSING AND STATE CERTIFICATION PROCEDURES.

(a) Application For Tribal License and State Certification. Each applicant for a Tribal license and for State certification shall submit a completed application and any other information required by the State Gaming Agency or by the Tribal Gaming Commission. Each application shall be accompanied by the applicant's fingerprint card or cards, two current photographs, and

the fee required by the State Gaming Agency or Tribal Gaming Commission respectively.

(b) Background Investigations of Applicants. Upon receipt of a completed application and the fee required for State certification, the State Gaming Agency shall conduct the necessary background investigation to ensure the applicant is qualified for State certification. Upon completion of the necessary background investigation, the State Gaming Agency shall either issue a State certification to the applicant with a copy to the Tribal Gaming Commission, or deny the application. If the application for certification is denied, a statement setting forth the grounds for denial shall be sent to the applicant with a copy sent to the Tribal Gaming Commission.

(c) Time Standards For Issuance of State Certification. The State Gaming Agency shall complete action on applications for the following State certifications within the time periods specified below:

Management Company -- Within 90 days of receipt of fee and completed application

Key Employee -- Within 60 days of receipt of fee and completed application -- but in 1992, up to 4 key employee applications will be completed within 35 days

Support Employee -- Within 30 days of receipt of fee and

completed application

(d) Duration and Renewal of Tribal Licenses and State Certifications. Any Tribal gaming license or State certification with regard to a management company, key, or support employee shall be effective for one year from the date of issuance. An applicant for renewal who has submitted the required application and any other information required by the licensing or certifying agency at least sixty days prior to the expiration of his license or certification may continue to be employed under the expired Tribal license or State certification until final action is taken on the renewal application by the Tribal Gaming Commission and/or State Gaming Agency respectively. Applicants for renewal of licenses or certification shall provide updated material as requested on the appropriate renewal forms, but shall not be required to resubmit historical data already provided or otherwise available to the Tribal Gaming Commission or the State Gaming Agency. It is understood that such renewal costs and fees shall not exceed customary costs and fees for similar State licenses.

(e) Identification Cards. The Tribal Gaming Commission shall require all gaming employees to wear identification cards issued by the Tribal Gaming Commission which shall include the employee's photograph, first name, employee number, Tribal seal or signature, and a date of expiration.

(f) State Fees for Certification. The fees for State certification, for background investigations, for deposits for background investigations, and for renewal of State certification shall be the same as those fees under Colorado's "Limited Gaming Act of 1991" that were in effect on September 1, 1991. Should the State be required to adjust these fees because of increased or decreased costs, the State Gaming Agency shall notify the Tribe sixty (60) days in advance of such adjustment. Should actual costs incurred by the State Gaming Agency for a background investigation exceed the amount deposited, those costs will be assessed to the applicant during the investigation process, provided that in such cases the State shall submit a detailed billing of such costs and an explanation as to why such excess costs were incurred. If the actual cost of any background investigation is less than the amount of the deposit, the State shall refund such surplus to the applicant. Payment in full of any required fee will be required prior to the issuance of State certification.

(g) Issuance of Tribal Licenses. By ordinance the Tribal Gaming Commission shall issue licenses and annual renewals to the (i) facility, (ii) the management company or companies, and (iii) key and non-key employees. Such licenses (to include appropriate background investigations) shall be undertaken promptly, at reasonable cost, and shall to the maximum extent feasible not

duplicate the certification efforts of the State. In its issuance of licenses and its oversight duties, the Tribal Gaming Commission shall be responsible for assuring that gaming or related operations authorized by this Compact comply with this Compact, provided that any dispute between the Tribe and a management company or key employee relating to a business issue contained in a management contract shall be resolved utilizing the conflict resolution provisions contained in the management contract, and such disputes shall not be the basis for revocation or non-renewal of a Tribal license. The fees for all Tribal gaming licenses including the cost of Tribal background investigations shall be set by the Tribal Gaming Commission. The Commission shall set special reduced rateS for Tribal members.

SECTION 6. TRIBAL CONTROL OF GAMING ACTIVITIES.

(a) Tribal Gaming Commission. The Tribal Gaming Commission shall have primary responsibility for the onsite regulation, control, and security of the gaming operation authorized by this Compact, and for the enforcement of this Compact within the Reservation. The State Gaming Agency may participate in the daily regulatory oversight of the gaming operation and may work closely with the Tribal Gaming Commission. However such State assistance shall not include traditional security and law

enforcement functions. The Tribal Gaming Commission shall assure;

(i) the enforcement of all relevant laws;

(ii) the physical safety of patrons in the establishment;

(iii) the physical safety of personnel employed by the establishment;

(iv) the physical safeguarding of assets transported to and from the gaming facility and cashier's cage department;

(v) the protection of the property of the patrons and the establishment from illegal activity;

(vi) the detention of persons who may be involved in illegal acts for the purpose of notifying law enforcement authorities; and

(vii) the recording of any and all unusual occurrences within the gaming facility for which the assignment of a security department employee is made. Each incident, without regard to materiality, shall be assigned a sequential number and, at a minimum, the following information shall be recorded in indelible ink in a bound notebook from which pages cannot be removed and each side of each page of which is sequentially numbered:

(A) the assigned number;

(B) the date;

(C) the time;

(D) the nature of the incident;

(E) the name, address, and date of birth of the person involved in the incident; and

(F) the security department employee assigned.

(b) Rules of the Games. The Tribal Gaming Commission shall notify the State Gaming Agency of the rules of each game operated by the Tribe and of any change in such rules. Summaries of the rules of each game relevant to the method of play and odds paid to winning bets shall be visibly displayed or available in pamphlet form in the gaming facility. Betting limits applicable to any gaming station shall be displayed at such gaming station. Rules for games identified in Section 3(a) of this compact or changes to such rules shall be based upon such games as commonly practiced in other gaming jurisdictions in the United States with such variations in the manner of wagering or play as do not fundamentally alter the nature of the game as the Tribal Gaming Commission may approve. Rules for games identified in Section 3(a) of this Compact or changes to such rules of this Compact shall be submitted for approval to the State Gaming Agency, which approval shall be granted within ten (10) days if they are consistent with the nature of such games as are then permitted in this Compact. The Tribe will provide the State Gaming Agency with ten (10) days advance notice of the rules of each game and any modification

thereof, and will provide adequate notice to patrons of the gaming operation facility to advise them of the applicable rules in effect.

(c) Appendix A Standards. The Tribal Gaming Commission shall adopt regulations to govern the operation and management of the gaming operation conducted under the authority of this Compact. The regulations shall maintain the integrity of the gaming operation, the safety of patrons, and shall reduce the dangers of unfair or illegal practices in the conduct of the Class III gaming operation. The initial regulations to govern the operation and management of the Tribal gaming operation shall be the standards set forth by the Tribal Gaming Commission in Appendix A of this Compact which is hereby incorporated herein by reference. The Tribal Gaming Commission shall notify the State Gaming Agency of any intent to revise the standards set forth in Appendix A and shall request the approval of the State Gaming Agency for such revisions. State Gaming Agency approval shall be deemed granted unless written disapproval within sixty (60) days of submission of the revised standards to the State Gaming Agency is delivered to the Tribal Gaming Commission. The State Gaming Agency shall approve the proposed revisions, unless it finds that they would have a material adverse impact on the public interest in the integrity of the gaming operation, and shall disapprove only such portions that are determined to have a material adverse impact

upon that interest. If disapproved, the State Gaming Agency shall set forth with specificity the reasons for such disapproval. Upon a notice of disapproval, the State and Tribe shall meet, and in good faith try to resolve the differences. If unsuccessful, the matter shall be brought to binding arbitration in accordance with Section 10 of this Compact.

(d) Inspectors. The Tribal Gaming Commission shall employ qualified inspectors or agents under the authority of the Tribal Gaming Commission. Said inspectors or agents shall be independent of the Tribal gaming operation, and shall be supervised and accountable only to the Tribal Gaming Commission.

(e) Reporting of Violations. During all hours of gaming operation, the Tribal Gaming Commission shall insure that its systems of internal control are in full force and effect. Any violation of the provisions of this Compact, or of Tribal ordinances by the Tribal gaming operation, a gaming employee, or any person associated with the Tribal gaming operation shall be reported immediately to the Tribal Gaming Commission, and notice of said violation shall be forwarded to the State Gaming Agency within seventy-two (72) hours of the time any violation is confirmed.

(f) Investigation and Sanctions. The Tribal Gaming Commission shall investigate any reported violation of the provisions of this Compact and shall require the Tribal gaming operation to

correct the violation upon such terms and conditions as the Tribal Gaming Commission determines are reasonable and necessary. The Tribal Gaming Commission shall be empowered by Tribal ordinance to impose reasonable sanctions upon the Tribal gaming operation, gaming employees, the management company, or any other person directly or indirectly involved in, or benefiting from the gaming operation, for a material violation of this Compact.

(g) Reporting to State Gaming Agency. The Tribal Gaming Commission shall forward copies of all completed investigative reports and final dispositions to the State Gaming Agency on a continuing basis. If requested by the Tribal Gaming Commission, the State Gaming Agency may assist in any investigation initiated by the Tribal Gaming Commission, and may provide other requested services to ensure proper compliance with the provisions of this Compact. Any sanction, or the denial, suspension, or revocation of any Tribal gaming license by the Tribal Gaming Commission shall be in accordance with Tribal ordinances and regulations governing such procedures.

(h) Quarterly Meetings. In an attempt to develop and foster a partnership in the enforcement of the provisions of this Compact, representatives of the State Gaming Agency and the Tribal Gaming Commission shall meet on a quarterly basis for the first year, and semi-annually thereafter to review past practices and examine methods to improve the regulatory program created by

this Compact. The meetings shall take place at a mutually agreeable location.

SECTION 7. STATE REVIEW OF GAMING OPERATIONS.

(a) Monitoring. The State Gaming Agency may monitor the Tribal gaming operation to help ensure that the operation is conducted in compliance with the provisions of this Compact. Agents of the State Gaming Agency shall have unrestricted access to all areas of the gaming facility during all operating hours without giving prior notice to the Tribal gaming operation. The State Gaming Agency shall also have unrestricted access to any books or records or gaming device or gaming equipment related to the gaming operation. One copy of such books and records shall be maintained at the gaming facility, or in a facility in reasonable proximity thereto.

(b) Access to Records. Agents of the State Gaming Agency shall have authority to review and copy, during normal business hours, all records maintained by the Tribal gaming operation. Each record of the Tribal gaming operation shall be deemed confidential and proprietary financial information of the Tribe and shall be protected from public disclosure except with the express written consent of the Tribe, or in connection with a judicial or administrative proceeding, or pursuant to court order.

(c) Investigations. The State Gaming Agency may conduct such investigations, and may employ all authority, including subpoena power, it deems appropriate to investigate suspected violations of this Compact.

(d) Tribal Gaming Commission Notification. At the completion of any inspection or investigation, copies of the investigative report shall be forwarded to the Tribal Gaming Commission. If requested by the Tribal Gaming Commission, the State Gaming Agency shall meet with the Tribal Gaming Commission to discuss State and Tribal enforcement options with respect to such investigations.

SECTION 8. REVOCATION, SUSPENSION, OR DENIAL OF STATE CERTIFICATION.

(a) Grounds for Revocation, Suspension, or Denial of State Certification. The State Gaming Agency may revoke, suspend, or deny a State certification for any of the following reasons.

(i) The applicant or person certified has violated or failed to comply with or has permitted a violation of, or aided, abetted, or conspired with another to violate: the provisions, requirements, conditions, limitations, or duties imposed by Appendix A or any provision of this Compact; or

(ii) The applicant or person certified has had a

Tribal license or State certification revoked or denied during the preceding twelve (12) months; or

(iii) The applicant or person certified has committed any offense that would be cause for revocation, suspension, or denial of a State license under Colorado's Limited Gaming Act of 1991.

(b) Right To Hearing for Revocation, Suspension, or Denial of State Certification. Any applicant for State certification, or holder of a State certification shall be entitled to a hearing on any action by the State Gaming Agency which may result in the revocation, suspension, or denial of State certification. The hearing and any appeal of the resulting decision will be conducted in accordance with the procedures and standards contained in the applicable provisions of the State Administrative Procedure Act. Such hearing shall be conducted by an independent hearing officer selected by the American Arbitration Association. Any appeal of the decision resulting from such hearing shall be through a review of the record and shall be conducted by an arbitrator selected utilizing the same procedures described above for the selection of a hearing officer. No judicial review of an arbitrator's decision will be permitted. The hearing officer shall bill his or her fees to the respective parties and the Tribe shall pay the arbitrator's fees. No former or present State employee, Tribal member, or former or present Tribal

employee may be designated as a hearing officer or arbitrator.

SECTION 9. ENFORCEMENT OF CRIMINAL GAMING LAWS.

(a) Law Enforcement Personnel. The Montezuma County Sheriff's Department shall provide law enforcement personnel to deal with gaming related offenses and law enforcement for the gaming facility during all operating hours. Such personnel shall be in addition to any Tribal law enforcement or security personnel provided by the Tribe or the management company. The Tribe and the Montezuma County Sheriff shall agree on the number of sheriff's deputies necessary to provide adequate law enforcement, but there shall be a minimum of one such deputy sheriff available during all operating hours. The cost of providing such personnel shall be borne by the Tribe, subject to the provisions of Section 14 of this Compact concerning economic and social impacts associated with Tribal Gaming.

(b) Indians. The Tribe shall enforce criminal gaming laws against Indians.

(c) Non-Indians.

(i) Applicable Laws. All State criminal laws and such laws as hereafter amended pertaining to the licensing, regulation, or prohibition of gaming and gambling which are not inconsistent with this Compact, including the sanctions associated with such laws, are adopted and incorporated herein by reference. Any

references in such laws to Teller or Gilpin Counties shall be deemed to apply to Indian gaming in or near Montezuma County. A violation of such State laws shall be punishable both as a State offense or as a Federal offense to the extent permitted by Federal law. A suspect charged with violation of such laws may be tried in either State or Federal court. If tried in Federal court and convicted, such suspect shall be guilty of a like offense and subject to a like punishment as if tried in State court. Such laws shall apply on Indian lands in the same manner and to the same extent with respect to non-Indians as such laws apply elsewhere in the State. Non-Indians who are guilty of any act or omission that would constitute a violation of such State laws shall be guilty of a like offense and subject to a like punishment.

(ii) Concurrent Jurisdiction. Pursuant to 18 U.S.C. § 1166 the Tribe consents to the transfer to the State of Federal criminal jurisdiction over non-Indians with respect to gambling on Indian lands. The United States and the State shall have concurrent jurisdiction to the extent permitted by Federal law over such criminal prosecutions of non-Indians. For the purposes of Federal prosecution, non-Indians who are guilty of any act or omission that would constitute a violation of such State laws shall be deemed to have been engaged in "gambling" rather than "Class III gaming" pursuant to 18 U.S.C. § 1166.

(iii) Costs of Incarceration and Prosecution. Suspects shall be transported to the Montezuma County jail. When a non-Indian suspect is prosecuted pursuant to this Section by the Montezuma County District Attorney or his designee, the Tribe shall reimburse the County for 50% of the expenses of the incarceration and prosecution of such suspect. The Tribe shall also reimburse the County for 50% of the expenses for the incarceration and prosecution of non-Indians who are casino patrons suspected of other non-gaming crimes committed against non-Indians in the gaming facility, the gaming facility's parking lot, or other areas specified in the April 27, 1992, cooperative law enforcement agreement attached hereto as Appendix B and incorporated herein by reference. This allocation of costs, as well as any increased costs to the State court system, shall be subject to renegotiation pursuant to Section 14 of this Compact concerning economic and social impacts associated with Tribal gaming. Should construction of additional county jail facilities become necessary as a result of incarceration of non-Indians incarcerated for purposes of potential prosecution or upon conviction by the State due to Tribal gaming, the parties agree to negotiate prior to any such construction so that an equitable share of such construction cost is borne by the Tribe. The Tribe shall have the right to inspect and audit the financial records and accounts of local law enforcement agencies with regard to all matters sub-

ject to cost sharing.

(iv) Disposition of Suspects. When Tribal law enforcement personnel have detained a non-Indian suspect, custody of such suspect shall be transferred to the appropriate Federal, State, or local authorities as soon as reasonably possible. When local law enforcement personnel have detained an Indian suspect, custody of such suspect shall be transferred to Tribal authorities as soon as reasonably possible.

(v) Procedures for Processing Suspects. The Tribe shall consult and cooperate with representatives from local, State, and Federal agencies in order to develop guidelines concerning the procedures to be used for such matters as the detention, arrest, transfer of custody, incarceration, and prosecution of non-Indian suspects. The provisions of this Compact shall control over any present or future agreement between the Tribe and local law enforcement or other local officials that may be inconsistent with the provisions of this Compact.

(d) Jurisdiction. Except as expressly provided herein, the Tribe reserves all jurisdiction over Tribal gaming. The provisions of this Section 9 of this Compact shall not alter the jurisdiction of the Tribe, the United States, the State, or local law enforcement agencies, except as such jurisdiction pertains to violations or suspected violations of criminal gaming laws and except as necessary to implement the provisions of this Section 9

of this Compact. Local law enforcement officials shall have access to the gaming facility for the purpose of carrying out their responsibilities pursuant to this Section 9 of this Compact.

(e) Reopener. The parties shall meet to discuss the implementation of the provisions of this Section 9 of this Compact and to negotiate any necessary or mutually beneficial changes to such provisions within 18 months of the commencement of Tribal gaming, or at any time prior to that with the agreement of the parties. The implementation of the provisions of this Section 9 of this Compact shall be an appropriate subject for discussion at the quarterly meetings held pursuant to Section 6(h) of this Compact. No renegotiation of this Compact shall be deemed to affect any on-going criminal prosecution.

(f) Other Federal Criminal Law. Nothing contained in this Section 9 of this Compact or elsewhere in this Compact shall alter or in any way diminish the authority of the United States to act pursuant to the provisions of 18 U.S.C. §§ 1163, 1167, or 1168, or any other law.

(g) Transfer of Responsibility. Before any transfer of law enforcement responsibilities from the Bureau of Indian Affairs to the Tribe takes place, the Tribe shall give the State and the Sheriff of Montezuma County at least 60 days notice. The Tribe shall cooperate in the negotiation of any new or amended law enforcement agreement necessary to adjust to this transfer.

SECTION 10. REMEDY FOR BREACH OF COMPACT PROVISIONS-ARBITRATION.

In addition to any remedies provided in the I.G.R.A., the Tribe and the State shall have the following remedy.

(a) If either party believes that the other is acting in a manner contrary to any of the provisions of this Compact, the complaining party shall notify the responding party in writing, specifying in detail the conduct complained of. The parties shall have twenty (20) days from the date of such notice to informally resolve the dispute.

(b) If the dispute is not resolved as provided in subsection (a) of this Section, the complaining party may invoke arbitration. Once a party has invoked arbitration the matter in controversy may not be litigated in court proceedings. A panel of three arbitrators shall be selected by the American Arbitration Association. The arbitrators may declare the parties' rights under the terms of this Compact and grant relief permitted by law. An arbitration award shall be made within 120 days of the selection of the arbitrators. The arbitrators shall bill their fees to the respective parties. No former or present State employee, Tribal member, or former or present Tribal employee may be designated as an arbitrator.

(c) No judicial review of an arbitration decision will be permitted. The parties may, by written agreement, permit a deci-

sion by a single arbitrator.

SECTION 11. TRIBAL REIMBURSEMENT FOR EXPENSES INCURRED BY THE STATE GAMING AGENCY.

(a) The Tribe shall reimburse the State Gaming Agency for expenses incurred by the State Gaming Agency in carrying out its responsibilities under the provisions of this Compact, including reimbursement for the reasonable cost of any training of personnel designated by the Tribe, reasonable background investigation costs, reasonable travel and travel-related expenses, reasonable monitoring and investigative costs, and reasonable processing costs.

(b) The State shall submit a detailed statement on a monthly basis to the Tribal Gaming Commission. The Tribe shall reimburse the State Gaming Agency within thirty (30) days after the receipt of the Statement of expenses. The State shall not impose any tax or fee upon the gaming facility, operations, revenues, and, property, but may impose its income tax on income generated by non-Indians at the gaming facility.

(c) If the Tribe believes that it has been assessed a charge for services that are not related to the Tribe's gaming, it shall notify the director of the State's Division of Gaming that it objects to the charge. If the parties are not able to resolve such a dispute, they may resort to arbitration as pro-

vided in Section 10 of this Compact and the arbitrator may allow or disallow the disputed charge.

SECTION 12. PUBLIC HEALTH AND SAFETY

(a) Standards. The Tribal Gaming Commission shall adopt public health and fire, property, and life safety standards that are comparable to the Uniform Building Code of 1988 and public health standards for food handling that are no less stringent than those requirements of the Indian Health Service in effect as of the date of this Compact.

(b) Emergency Service Accessibility. The Tribal Gaming Commission shall make provisions for adequate emergency service accessibility.

SECTION 13. EFFECTIVE DATE, TERMINATION AND AMENDMENT

(a) Effective Date. This Compact shall be effective after ratification by the Ute Mountain Ute Tribe and the State of Colorado and upon publication of notice of approval in the Federal Register in accordance with 25 U.S.C. § 2710(d)(3)(B). Gaming operations shall commence after all relevant requirements of the Act have been met.

(b) Voluntary Termination. This Compact shall be in effect until terminated by the written agreement of both parties.

Should the Tribe wish to cease Class III gaming, the Tribe may unilaterally terminate this Compact by submitting written notice sixty (60) days prior to the date of termination to the Governor of the State of Colorado and to the State Gaming Agency. However, any State or local investigation shall continue until the completion of any pending investigation and enforcement action, if applicable.

(c) Amendment. The terms and conditions of this Compact may be amended by written agreement of both parties, and upon the approval by the Secretary. The State or the Tribe may, by notice to the other, request negotiations to amend this Compact. In the event of a request for amendment, this Compact shall remain in effect until amended. If such a request is made by either party, it shall be treated as a request to negotiate pursuant to the Act, except that both parties shall be charged with the obligation to negotiate in good faith and the burden of proving that the opposing party has failed to negotiate in good faith shall be on the party alleging such failure. The State and the Tribe shall have 180 days to negotiate such an amendment, and all further procedures and remedies available under the Act shall thereafter apply. The parties may agree to extend the 180 day period without prejudice to the rights of either party under this Section 13 of this Compact.

If the State and the Tribe fail to reach an agreement

within the 180-day period, and neither the State nor the Tribe elects to pursue other remedies, then the Tribe and the State shall each submit to a mediator, appointed jointly by the Tribal Chairman and the Governor of the State or their respective designee, a proposed amendment that represents the party's last best offer for an amendment or a proposal that no amendment should be made. Taking into account the particularities of the disputed issues, the mediator shall select from the two proposals the one which best comports with the terms of the Act, and any other applicable Federal statutory law. The mediator shall advise the State and the Tribe which proposal has been selected. If the State and the Tribe consent to a proposal during the 45-day period beginning on the date on which the mediator advised the State and the Tribe of which proposal was selected, the proposal shall become effective upon approval by the Secretary. If the State and the Tribe do not consent to a proposal during the 45-day period described above, the mediator shall notify the Secretary and the Secretary shall prescribe, in consultation with the Tribe, procedures:

(i) which are consistent with the proposal selected by the mediator, any relevant provisions of the laws of the State, and the provisions of the Act; and

(ii) under which Class III gaming may be conducted on the Reservation.

SECTION 15. NOTICES.

Unless otherwise indicated by this Compact, all notices required or authorized to be served shall be served by first class mail at the following addresses:

Tribal Chairman
Ute Mountain Ute Indian Tribe
Towaoc, Colorado

Governor
State of Colorado
State Capitol
Denver, Colorado 80202

A copy of any notice to the Governor shall be sent simultaneously to the State Gaming Agency.

SECTION 16. SEVERABILITY.

In the event that any section or provision of this Compact is held invalid, or its application to any particular activity is held to be invalid, it is the intent of the parties that the remaining sections and provisions of the Compact and the remaining applications of such section or provision shall continue in full force and effect.

UTE MOUNTAIN UTE TRIBE

DATE: 5-1-92

STATE OF COLORADO

DATE: 4/30/92

(d) State Authorization of Additional Class III Gaming Activities. In the event the State authorizes Class III gaming activities in addition to those described in Section 3 of this Compact, and the Tribe desires to engage in such gaming activity, the Tribe shall follow the amendment procedures specified in subsection (c) of this Section of this Compact.

SECTION 14. ECONOMIC AND SOCIAL IMPACT.

The parties recognize and acknowledge that Tribal gaming activity may have a substantial economic and social impact or effect on the cities, towns, and counties surrounding or near the site of such activity. At the time this Compact was negotiated it was impossible to forecast, assess or quantify such impact or effect. Accordingly, the parties agree to negotiate appropriate resolutions or remedies to address such impacts or effects within 18 months of the commencement of Tribal gaming. Notwithstanding the limitations on State taxation contained in Section 11 of this Compact, the Tribe agrees to assist the State in correcting specific social impact problems. In determining the Tribe's contribution, if any, the parties shall take into account the increase in wealth of the non-Indian community and the increased revenues received by the State, if any, which result from the Tribal gaming activity.

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UTE MOUNTAIN UTE TRIBE

DATE: May 1, 1992

STATE OF COLORADO

DATE: 4/30/92

Bureau of Indian Affairs

Assistant Secretary - Indian Affairs

7-6-92
Date