



September 28, 2015

By First Class Mail

Jim Edwards, Chairman
Berry Creek Rancheria of Maidu Indians of California
5 Tyme Way
Oroville, CA 95966

Re: Review of 2015 Loan Documents for the Berry Creek Rancheria of Maidu Indians of California

Dear Chairman Edwards:

This letter responds to your September 3, 2015 requests, on behalf of the Berry Creek Rancheria of Maidu Indians of California, for the Office of the General Counsel, National Indian Gaming Commission, to review certain loan documents and to provide an opinion as to whether the submitted loan documents are management contracts requiring the NIGC Chairman's approval pursuant to the Indian Gaming Regulatory Act of 1988. The Tribe also requested OGC's opinion as to whether the loan documents violate IGRA's requirement that a tribe have sole proprietary interest in its gaming operation.

In my review, I considered the following submissions (collectively, "the 2015 Loan Documents"):

- *Loan Agreement Berry Creek Rancheria of Maidu Indians* dated as of _____, 2015 between Bank of America, N.A. and the Berry Creek Rancheria of Maidu Indians of California (marked at bottom left as "SMRH:207428401.2" and at top right as "SMRH Draft 8/18/15"); and
- *Second Amendment to Second Amended and Restated Business Loan Agreement* dated as of [August __,] 2015 between the Berry Creek Rancheria of Maidu Indians of California and Bank of America, N.A. (marked at bottom left as "SMRH:205432826.4" and at top right as "SMRH Draft 9/1/15");
- *Second Amended and Restated Business Loan Agreement* [Conformed to include changes in First Amendment and Second Amendment to Second Amended and Restated Business Loan Agreement dated as of September 27, 2012 and September [], 2015, respectively] between Bank of America, N.A. and the Berry Creek Rancheria of Maidu Indians of California (marked at bottom left as "SMRH:205433009.4");

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- *Form of Compliance Certificate* (marked at bottom left as “SMRH:223024077.2”); and
- *Amended and Restated Security Agreement Berry Creek Rancheria of Maidu Indians of California* (executed on September 17, 2010; the subject of a declination letter issued on September 14, 2010).

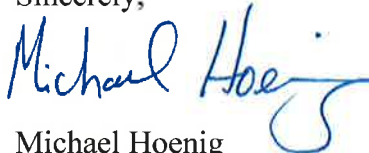
The 2015 Loan Documents contain terms similar to other agreements that OGC has previously reviewed and analyzed. Some of these opinion letters may be found at http://www.nigc.gov/Reading_Room/Management_Review_Letters_Declination_Letters.aspx. Applying the same analysis here, it is my opinion that, collectively, the 2015 Loan Documents are not management contracts and do not require the approval of the NIGC Chairman. It is also my opinion that they do not violate IGRA’s sole proprietary interest requirement.

It is my understanding that the 2015 Loan Documents (with the exception of the Security Agreement that was finalized on September 17, 2010) are represented to be in substantially final form, and any further changes will not be material to OGC’s analysis. This opinion shall not apply if the 2015 Loan Documents: (i) change in any material way prior to closing; (ii) are not executed; or (iii) are inconsistent with assumptions made herein. Further, this opinion is limited to the aforementioned 2015 Loan Documents and does not include or extend to any other agreements not submitted for review.

I anticipate that this letter will be posted on the NIGC’s website. Prior to posting, the NIGC FOIA Officer will notify you and provide you with an opportunity to identify and request that information subject to the exemptions under the Freedom of Information Act 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 Armando Acosta, Senior Attorney, at (202) 632-7003.

Sincerely,



Michael Hoenig
General Counsel

cc: Patrick C. Marshall, Esq. (via email: p.c.marshall@comcast.net)