



May 4, 2011

Via U.S. Mail & Facsimile

Chairman Danny Tucker
Sycuan Band of the Kumeyaay Nation
5459 Sycuan Road
El Cajon, CA 92019
Fax: (619) 445-1927

Re: Review of financing documents for the Sycuan Band of the Kumeyaay Nation

Dear Chairman Tucker:

This letter responds to your March 10, 2011 and April 18, 2011 requests on behalf of the Sycuan Band of the Kumeyaay Nation (Band) for the National Indian Gaming Commission's Office of General Counsel to review the Band's financing documents with Wells Fargo Bank N.A.; Wells Fargo Securities LLC; and U.S. Bank N.A. Specifically, you have asked for my opinion whether the documents are management contracts requiring the NIGC Chairwoman's approval under the Indian Gaming Regulatory Act. You also asked for my opinion whether the financing documents violate IGRA's requirement that a Band have the sole proprietary interest in its gaming operation.

In my review, I considered the following submissions (collectively, "the Financing Documents") which were represented to be in substantially final form:

- Second amended and restated credit agreement marked "OHS WEST:261073538.10" (Credit Agreement);
- Form of second amended and restated line of credit note attached as Exhibit B to the Credit Agreement marked "OHS West:2610793787.4";
- Form of notice of authorized representative attached as Exhibit C to the Credit Agreement marked "OHS West:2610793787.4";
- Form of notice of borrowing/continuation/conversion notice attached as Exhibit D to the Credit Agreement marked "OHS West:2610793787.4";
- Assignment and assumption agreement attached as Exhibit G to the Credit Agreement marked "OHS West:2610793787.4";
- Form of notice of swingline advance attached as Exhibit I to the Credit Agreement marked "OHS West:2610793787.4";
- Form of second amended and restated swingline note attached as Exhibit J to the Credit Agreement marked "OHS West:2610793787.4";
- Second amended and restated security agreement marked "OHS WEST:26178558.4" (Security Agreement);

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- Form amended and restated deposit account control agreement marked "OHS WEST:261110970.3" (Form Deposit Account Control Agreement);
- Amended and restated deposit account control agreement between Pacific Western Bank and the Band and Wells Fargo marked "OHS WEST:261111055.3" (Account Control Agreement); and,
- Unjust enrichment and sovereign immunity agreement marked "OHS WEST:261082852.4" (Unjust Enrichment Agreement).

The Financing Documents contain terms similar to other agreements the Office of General Counsel has already reviewed and analyzed. *See* www.nigc.gov/Reading_Room/Management_Review_Letters.aspx. Applying the same analysis here, it is my opinion that the Financing Documents are not management contracts and do not require the approval of the Chairwoman. It is also my opinion that they do not violate IGRA's sole proprietary interest requirement.

It is my understanding that the drafts are represented to be in substantially final form, and if the Financing Documents change in any material way prior to closing or are inconsistent with assumptions made herein, this opinion shall not apply.

I anticipate that this letter will be the subject of Freedom of Information Act (FOIA) requests. Since we believe that some of the information in this letter may fall within FOIA exemption 4(c), which applies to confidential and proprietary information the release of which could cause substantial harm, I ask that you provide me with your views regarding release within ten days.

I am also sending a copy of the submitted Financing Documents to the Department of the Interior Office of Indian Gaming for review under 25 U.S.C. § 81. If you have any questions, please contact NIGC Staff Attorney Melissa Schlichting at (202) 632-7003.

Sincerely,



Lawrence S. Roberts
General Counsel

cc: Paula Hart, Director
Office of Indian Gaming
(via US Mail w/ incoming)