



November 8, 2016

Via U.S. Mail & Facsimile

John A. Barrett, Chairman
Citizen Potawatomi Nation
1601 Gordon Cooper Dr.
Shawnee, OK 74801
Fax: 405-275-0198

Re: Review of loan documents for the Citizen Potawatomi Nation

Dear Chairman Barrett:

This letter responds to the request on behalf of Citizen Potawatomi Nation for the National Indian Gaming Commission's Office of General Counsel to review several financing agreements. Specifically, you have asked for an opinion on whether the agreements are management contracts requiring the NIGC Chair's approval under the Indian Gaming Regulatory Act. You also asked for an opinion whether the agreements violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following documents (collectively "the Financing Agreements") submitted on behalf of the Nation:

- Loan Agreement, marked as 4848-1770-6800.8
- Security Agreement, marked as 4843-3558-6097/3
- Term Note, marked as 4848-1499-1925/2

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

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

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Agreements listed above. This opinion does not include or extend to any other agreements or documents not submitted for review.

Please note that it is my intent that this letter be released to the public through the NIGC's website. If you have any objection to this disclosure, please provide a written statement explaining the grounds for the objection and highlighting the information that you believe should be withheld. 25 C.F.R. § 517.7(c). If you object on the grounds that the information qualifies as confidential commercial information subject to withholding under Exemption Four of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(4), please be advised that the information was voluntarily submitted and, as such, that any withholding should be analyzed in accordance with the standard set forth in *Critical Mass Energy Project v. NRC*, 975 F.2d 871 (D.C. Cir. 1992). Any claim of confidentiality should also be supported with "a statement or certification by an officer or authorized representative of the submitter." 25 C.F.R. § 517.7(c). Please submit any written objection to FOIASubmitterReply@nigc.gov **within thirty (30) days of the date of this letter**. After this time elapses, the letter will be made public and objections will no longer be considered. *Id.* If you need any additional guidance regarding potential grounds for withholding, please see the United States Department of Justice's Guide to the Freedom of Information Act at <http://www.justice.gov/oip/doj-guide-freedom-information-act-0>.

If you have any questions, please contact NIGC Staff Attorney Heather McMillan Nakai at (202) 632-7003.

Sincerely,



Michael Hoenig
General Counsel

cc: Greg Quinlan
(via email gquinlan@potawatomi.org)