



May 25, 2023

VIA EMAIL

Christine M. Masse, P.C.
Miller Nash LLP
605 5th Ave S, Ste. 900
Seattle, WA 98104

Re: Review of the 2023 Loan Documents for the Stillaguamish Tribe of Indians

Dear Ms. Masse:

This letter responds to your April 17, 2023 request, on behalf of the Stillaguamish Tribe of Indians, for the National Indian Gaming Commission, Office of General Counsel, to review certain financial transaction documents and to provide an opinion as to whether or not these transaction documents are management contracts requiring the NIGC Chairman's approval pursuant to the Indian Gaming Regulatory Act of 1988. You have also asked for my opinion as to whether or not the financial transaction documents violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submissions (collectively, "the 2023 Loan Documents"):

- *Loan Agreement Dated as of [__], 2023, among Stillaguamish Tribe of Indians, as Borrower; the Lenders party hereto from time to time; and KeyBank National Association, as Administrative Agent* (marked at top right as "Faegre Drinker Draft (4-14-2023)" and at bottom left as "US.355079249.07");
- *Exhibit C-1 Form of Tax-Exempt Term Note* (marked at top right as "Faegre Drinker Draft (4-14-2023)") and *Exhibit C-2 Form of Term Note*;
- *Schedule 6.5 Insurance*;
- *Reaffirmation of Collateral Documents* (marked at top right as "Faegre Drinker Draft (4-17-2023)" and at bottom left as "US.355238842.03"); and
- *First Amendment to Deposit Account Control Agreement* (marked at top right as "Faegre Drinker Draft (4-17-2023)" and at bottom left as "US.356920153.02").

The 2023 Loan Documents contain terms similar to other agreements that OGC has previously reviewed and analyzed. Applying the same analysis here, it is my opinion that the

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Re: Review of the 2023 Loan Documents for the Stillaguamish Tribe of Indians

May 25, 2023

Page 2 of 2

2023 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 2023 Loan Documents 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 2023 Loan Documents change in any material manner prior to closing or are inconsistent with the assumptions made herein. Further, this opinion is limited to the aforementioned 2023 Loan Documents and does not include or extend to any other agreements 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.¹ 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),² please be advised that the information was voluntarily submitted and, as such, any withholding should be analyzed under the standard set forth in *Food Marketing Institute v. Argus Leader Media*.³ Any claim of confidentiality should also be supported with "a statement or certification by an officer or authorized representative of the submitter."⁴ 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.⁵ 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 <<https://www.justice.gov/oip/doj-guide-freedom-information-act-0>>.

If you have any questions, please contact Armando Acosta, Senior Attorney, at (202) 632-7003.

Sincerely,



Rea Cisneros
General Counsel (Acting)

¹ See 25 C.F.R. § 517.7(c).

² 5 U.S.C. § 552(b)(4).

³ 139 S. Ct. 2356 (2019).

⁴ See 25 C.F.R. § 517.7(d).

⁵ *Id.*