



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUN 16 2010

The Honorable Bert Johnson
House of Representatives
State of Michigan
State Capitol
Lansing, Michigan 48913

Dear Representative Johnson:

Thank you for your letter dated May 10, 2010 addressed to Secretary Salazar seeking information and clarification of the Department of the Interior's Indian gaming policies. Your letter was forwarded to this office for a response.

As to your first question Section 2710(d)(8)(A) of the Indian Gaming Regulatory Act (IGRA) authorizes the Secretary "to approve any Tribal-State compact (compact) entered into between an Indian tribe and a State governing gaming *on Indian lands of such Indian tribe.*" This section does not authorize the Secretary to approve a compact for the conduct of Class III gaming activities on lands that are not now, and may never be, Indian lands of such Indian tribe. Thus if a compact is "site specific" and identifies land that is not now or may never be Indian lands in accordance with IGRA and the tribe has not identified land that is eligible for gaming in the compact the compact may be disapproved.

Your second question, asks whether Little River Band of Chippewa Indians (Band) has submitted a proposal to take the Muskegon racetrack into trust. No, there is no pending application at the Department to take the Muskegon racetrack into trust.

Your third question asks whether the Department has recently adopted a policy on revenue sharing. No "new policy" has been adopted. As previous compact decision letters have stated, in order to determine whether revenue sharing violates 25 U.S.C. § 2710(d)(4), we first look to whether the State has offered meaningful concessions. We have traditionally viewed this concept as one where the State concedes something that it was otherwise not required to negotiate that provides a benefit to the Tribe, i.e. exclusivity or some other benefit. In other words, we examine whether the State has made meaningful and significant concessions in exchange for receiving revenue sharing.

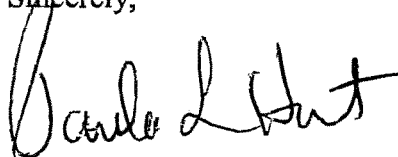
The next step in our analysis is to determine whether these concessions result in a substantial economic benefit to the Tribe. The payment to the state must be appropriate in light of the value of the economic benefit conferred on the Tribe. This analysis (meaningful concessions by the State and substantial economic benefit conferred on the tribe) allows us to ascertain that revenue-

sharing payments are the product of arms-length negotiations, and not tantamount to the imposition of a tax, fee, charge or other assessment prohibited under 25 U.S.C. § 2710(d)(4). You also ask whether the Band's submitted compact meets the policy requirements regarding the revenue sharing payments in the compact. The Band's compact is presently under review. Until a decision is made on that compact we cannot answer this question.

Your final question asks if the Department is considering any new policies that may affect the Band's application for a two-part determination. The Department is in the process of reviewing the previous Administration's gaming policies, no decisions have been made regarding those policies.

We hope this information addresses the concerns raised in your letter. Thank you for your interest in Indian gaming issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Paula L. Hart". The signature is fluid and cursive, with a large initial "P" and "H".

Paula L. Hart
Director, Office of Indian Gaming