



November 5, 2002

Jamie Hummingbird, Director
Cherokee Nation Gaming Commission
PO Box 627
Tahlequah, OK 74465-0627

Dear Mr. Hummingbird:


We received your October 28, 2002, letters to the Director of Enforcement indicating that you have reviewed VGT Bingo and a Rocket Bingo game known as Buffalo Bucks or Wild Hare. You further indicated that you concluded that these two games are Class II games and plan to offer them unless you receive notification from this office that the games are Class III.

I reviewed the description you provided on VGT Bingo. Except for the mechanical reel, this game appears to be identical to the MegaNanza game that I previously concluded is a Class III game. A copy of that advisory opinion, as well as a copy of the brief in Multimedia Games, Inc. v. United States, Case No. 02-CV-296-P[J] (U.S.D.C. N.D. OK) that expands on the advisory opinion, is enclosed for your information. Furthermore, the addition of the mechanical reel to the game appears to place this game squarely within the definition of a slot machine under the Johnson Act. 15 U.S.C. § 1171(a)(1). The Indian Gaming Regulatory Act at 25 U.S.C. § 2703(7)(B)(ii) states that Class II gaming cannot include slot machines. The implementing regulation at 25 CFR § 502.4(b) specifically defines slot machines as those that fall within the definition at 15 U.S.C. § 1171(a)(1). Consequently, I cannot agree that the VGT Bingo is a Class II game.

The Rocket Bingo game is presently under review by our office. If you can provide us with any further records that further explain this game or have a video of the play of the game, that information would assist us in our review. Please send it to the attention of Maria Getoff, Staff Attorney.

Thank you for providing this office with information on your games. If you have any questions, do not hesitate to contact us.

Sincerely,


Penny J Coleman
Acting General Counsel

cc: Region Chief
Enclosures