

National Indian Gaming Commission

SETTLEMENT AGREEMENT

SA-09-37

INTRODUCTION

This Settlement Agreement (“Agreement”) is entered into by and between Ralph Sampson, Jr., Chairman of the Confederated Tribes and Bands of the Yakama Nation, a federally-recognized Indian Nation (“Nation”) and George T. Skibine, the Acting Chairman of the National Indian Gaming Commission (“NIGC Chairman”; collectively “parties”) relating to the matters contained in Notice of Violation No. NOV-09-37 (“NOV-09-37”).

RECITALS

Whereas, the Nation has conducted gaming on Indian lands at Yakama Legends Casino in Toppenish, Washington since 1998; and

Whereas, the NIGC Chairman and the Nation desire to resolve issues related to NOV-09-37.

Therefore, the NIGC Chairman and the Nation have agreed to execute this Agreement and perform in accordance with the following covenants and conditions:

TERMS OF SETTLEMENT

1. On September 1, 2009, then Chairman Philip N. Hogen issued Notice of Violation No. NOV-09-37 to the Nation alleging that the distribution of \$2,000 of net gaming revenue to

each Tribal member in the absence of an approved revenue allocation plan violated IGRA's requirement that per capita payments be made pursuant to a revenue allocation plan approved by the Secretary of the Department of the Interior (DOI). *See* 25 U.S.C. § 2710(a)(3)(A-D). On October 1, 2009, the Nation timely appealed NOV-09-37. In its appeal notice, the Nation asserted:

Nothing herein may be interpreted as either (1) an admission of liability or wrongdoing on the part of the Nation, or (2) a waiver of any of the Nation's procedural or administrative rights. Nor does the Nation hereby waive, alter or otherwise diminish any rights, privileges, remedies or services guaranteed by the Treaty with the Yakima of 1855.

The appeal was immediately stayed in order to allow the NIGC Chairman and the Nation to pursue settlement negotiations.

2. The NIGC Chairman recognizes that the Nation submitted its proposed revenue allocation plan to DOI Yakama Agency Superintendent Guy Robbins on December 10, 2008. This proposed revenue allocation plan was forwarded by Superintendent Robbins to the DOI Director of the Office of Indian Gaming on December 11, 2008.

3. The Nation recognizes that the proposed revenue allocation plan was not approved by DOI until February 23, 2009, despite DOI needing to approve or disapprove the plan within 60 days as required by 25 CFR § 290.19.16. The Nation agrees that: On or about December 19, 2008, it distributed \$2,000 to each Yakama Tribal member. Consequently, the Nation did not possess an approved revenue allocation plan when it distributed net gaming revenue to each of its individual tribal members. Because it did not have an approved revenue allocation plan at the time of the per member distribution, the distribution violated applicable laws.

4. The Nation agrees to pay five thousand dollars (\$5,000.00) to fully and finally resolve matters related to NOV-09-37 as outlined herein. The Chairman acknowledges receipt, on November 2, 2009, of a check in the amount of five thousand dollars (\$5,000.00).

5. The NIGC Chairman agrees upon execution of this Agreement to waive the right to impose any additional civil fine or issue another NOV for NOV-09-37, unless the Nation fails to comply with this Agreement.

6. This Agreement is entered into pursuant to 25 C.F.R. § 575.6(b) and shall be effective upon the signature of all parties.

7. The Nation agrees upon execution of this Agreement to waive its right, if any, to further review of NOV-09-37, including all rights to appeal to the full Commission as outlined in 25 C.F.R. § 577 *et seq.* and judicial review pursuant to 25 U.S.C. § 2714.

8. The Parties agree that payment fully and finally resolves matters related to NOV-09-37 as outlined herein.

9. The Nation stipulates that the Settlement Agreement shall be deemed a final Commission decision and final agency action pursuant to 25 C.F.R. § 577.9(d).

10. Nothing herein shall waive, alter, or otherwise diminish the Nation's rights, privileges, remedies or services guaranteed by the Yakama Treaty of 1855.

ADDITIONAL COVENANTS

1. This Agreement constitutes the entire agreement between the NIGC Chairman and the Nation and supersedes all prior verbal or written agreements and understandings between the parties related to the subject matter hereof. No warranties, representations, covenants, or agreements shall be binding upon any party except as set forth herein. Any modification or

waiver of any term of this Agreement, including the modification or waiver of term, must be in writing and signed by both parties.

2. The NIGC Chairman and the Nation expressly agree and acknowledge that time is of the essence in this Agreement, and further stipulate to file a joint motion seeking the Presiding Official's certification of this Agreement, and that such certification shall constitute dismissal of the Nation's appeal of NOV-09-37. The terms herein and above shall be binding upon the parties, their agents, heirs, personal representatives, successors and assigns.

3. A signature produced by facsimile shall be deemed to be an original signature and shall be effective and binding for purposes of the Agreement.

Yakama Nation

National Indian Gaming Commission

By: *Ralph Sampson, Jr.*
Ralph Sampson, Jr.
Chairman

By: _____
George T. Skibine
Acting Chairman

October 29, 2009
Date

Date

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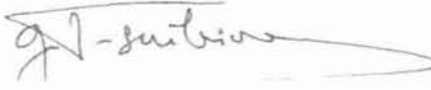
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Yakama Nation

National Indian Gaming Commission

By: _____
Ralph Sampson, Jr.
Chairman

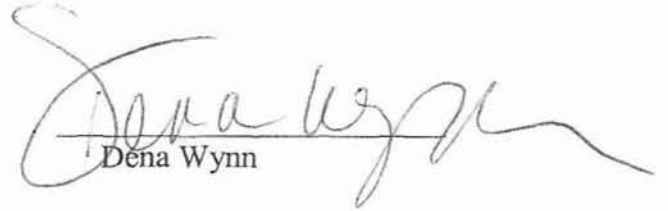
Date

By: 
George T. Skibine
Acting Chairman


Date

Certificate of Service

I certify that this Settlement Agreement: SA-09-37 was sent by facsimile transmission and certified U.S. mail, return receipt requested, on this 2nd day of November, 2009.


Dena Wynn