DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Amendment to Approved Tribal-State Compact.

SUMMARY: This notice publishes the Approval of the Amendment to the Tribal-State Compact between the Puyallup Tribe of Indians and the State of Washington.

EFFECTIVE DATE: December 29, 2004.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III 9casion) gambling on Indian reservations. The Deputy Principal Assistant Secretary—Indian Affairs, Department of Interior, through his delegated authority, has approved the Third Amendment to the Tribal-State Compact for Class III Gaming between the Puyallup Tribe of Indians and the State of Washington, which was executed on November 16, 2004.

This Amendment authorizes the Tribe to conduct Class III gaming activities on fee land (the Fife Property) within the Tribe's reservation boundaries.

Dated: December 22, 2004.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

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ORIGINAL

THIRD AMENDMENT TO THE TRIBAL-STATE COMPACT FOR CLASS III GAMING BETWEEN THE PUYALLUP TRIBE OF INDIANS AND THE STATE OF WASHINGTON

INTRODUCTION AND BACKGROUND

The Puyallup Tribe of Indians ("Tribe") and the State of Washington ("State") entered into a Class III gaming compact ("Compact") on May 28, 1996, pursuant to the Indian Gaming Regulatory Act of 1988 ("IGRA"). The Tribe and the State amended that Compact by mutual agreement on November 23, 1998, and again on May 19, 2002.

At the request of the Tribe, the Tribe and the State entered into negotiations for a third amendment to the Compact. The Tribe's request stemmed from an agreement the Tribe reached with, and at the behest of, the Port of Tacoma ("Port"), as reflected in the Alexander Avenue Interlocal Agreement, dated February 9, 2004 (incorporated herein as Appendix "D" to the Compact). In order to implement that Agreement, the Port, the Tribe, the Governor, and local governments on and near the Puyallup Indian Reservation reached an agreement as set forth in a Memorandum of Understanding dated April 13, 2004 (incorporated herein as Appendix "E" to the Compact).

The purpose of the Interlocal Agreement was to accommodate an estimated $210 million expansion project being carried out by the Port on the Blair Waterway in Commencement Bay, Tacoma, Washington. The project will result in an estimated 1,190 direct Port-industry jobs at average annual wages of $47,000. It is thus vitally important to the community as a whole.

In order to construct that facility, the Port had petitioned for the vacation of Alexander Avenue, which is also the arterial on which is located the main facility of the Tribe's Emerald Queen Casino ("EQC"). The potential for substantial and harmful impacts to the Tribe and its casino, as a result of the road closure, led to negotiations and the Interlocal Agreement. In that document, the Tribe agreed to accommodate the Port's project by relocating the Alexander Avenue facility of the EQC.

The Tribe has borrowed and invested a substantial sum of money to relocate a portion of the EQC to the Tribe's second existing gaming facility ("I-5 Property"), and to purchase a parcel of property in Fife, Washington, on the Puyallup Indian Reservation ("Fife Property") to which it will relocate the remainder of the EQC facility. That investment is being made simply to maintain the revenue stream that the Alexander Avenue facility of the EQC has been generating (and upon which the Tribal government depends for its funding). The Tribe's plans to expand its gaming capacity have been put on hold.

Supported by the Governor, the Port, and the local governments, the Tribe is applying for the fee-to-trust transfer of the Fife Property. Because that process takes longer than the Port can afford to wait for the closure of Alexander Avenue, those parties support the Tribe's request for authorization in this Amendment to allow the Tribe, for a certain period of time, to conduct gaming on the Fife Property while it is still owned in fee.

As provided below, this modification is authorized only on a temporary basis and will expire upon the occurrence of certain events. It is authorized only because of the unique circumstances that it addresses: the Tribe's willingness to relocate one of the two sites of the EQC in order to accommodate the Port's development plans for the good of the greater community. Neither the Tribe nor the State would seek or concur with this modification absent those unique circumstances. Neither party wishes to have this provision remain in place any longer than is necessary to deal with the impact of the relocation on the Tribe's investment. This provision will therefore expire on the schedule spelled out below.

The parties believe the conduct of Class III gaming under the terms and conditions set forth below, based on the unique circumstances outlined in the Interlocal Agreement and the MOU, will benefit the Tribe and the State and protect the members of the Tribe and the citizens of the State consistent with the objectives of IGRA. All of the provisions of this Compact Amendment are interrelated and interdependent and, as such, they are not divisible from each other for any purpose. Any attempted use or interpretation of individual provisions of this Amendment must incorporate, apply and give full consideration to the entirety of its contents.

COMPACT AMENDMENT

Section III(F) is amended to read as follows:

F. Authorized Gaming Facilities. The Tribe may establish two (2) gaming facilities, to be located on Tribal land held in trust within or contiguous to the boundaries of the Puyallup Indian Reservation for the operation of any Class III games authorized pursuant to this Compact; provided, however, that in light of the circumstances spelled out in the Introduction and Background to the Third Amendment to this Compact, the following provisions shall be applicable only for the time periods indicated:

1. Fee land. The Tribe is authorized on a temporary basis to operate one of its two gaming facilities on fee land located at 5700 Pacific Highway East, Fife, Washington 98424, which is within the boundaries of the Puyallup Indian Reservation and is hereinafter referred to as "the Fife Property," subject to the limits in subsection (3), below, **PROVIDED**, that the Tribe demonstrates it is actively requesting and continuing to use its best efforts to ensure that federal legislation is introduced to transfer the Fife Property into trust status, and/or that it

also has pending an application to the Secretary of the Interior to transfer said property into trust. In addition, prior to the execution of this Amendment, the Tribe will also provide the State with the following to demonstrate the Tribe's ability to effectively exercise jurisdiction over the Fife Property:

a. The legal description of the Fife Property, and proof of acquisition of the same;

b. Copies of any agreements with local governments relevant to the exercise and division of jurisdiction and governmental authority and the provision of governmental services on and around the new location of the Tribe's casino during the time the land remains in fee ownership. In particular, the Tribe will provide copies of its agreement(s) with the City of Fife and Pierce County dealing with those subjects, including issues such as law enforcement, fire and emergency services and other public health and safety issues. Those agreements will be incorporated into to the Compact as Appendix "F"; and

c. Written approval from the National Indian Gaming Commission authorizing an ordinance for Class III gaming on the Fife Property.

2. Term of Amendment.

a. Subsection 1, "Fee land," above, shall be effective until the earliest of the following events:

i. The final and effective conveyance of the Fife Property to the United States in trust for the benefit of the Puyallup Tribe; or

ii. One year following the construction and opening of a new hotel-casino complex on the Tribe's I-5 Property at 2002 East 28th Street, Tacoma, **PROVIDED**, however, that the Tribe is not authorized to operate more than two gaming facilities at any time; or

iii. The third anniversary of the effective date of this Amendment. It is further **PROVIDED**, however, that the Tribe shall be entitled to one automatic three-year extension of the deadline contained in this subsection 2.iii if, and for only as long as, the Tribe still has pending and is actively pursuing its application for the fee-to-trust transfer of the Fife Property. The extension, if required, shall take effect upon written notification by the Tribe to the State. The Tribe may operate at the fee land location for no more than (6) six years from the effective date of this Amendment and must immediately cease gaming operations at the Fife Property if the land is not accepted for trust status within that time frame.

IN WITNESS WHEREOF, the Puyallup Tribe of Indians and the State of Washington have executed this amendment to the compact.

PUYALLUP TRIBE OF INDIANS:

By: _____
Herman Dillon, Sr., Chairman
Puyallup Tribal Council

Dated: 11/3/04

STATE OF WASHINGTON:

By: _____
Gary Locke, Governor

Dated: NOV 16, 2004

UNITED STATES DEPARTMENT OF INTERIOR:

By: _____
Michael D. Olsen
Principal Deputy Assistant Secretary- Indian Affairs

Dated: 12/21/04