

# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

JUL 26 2000

Honorable George E. Pataki  
Governor  
State of New York  
Albany, New York 12224

Dear Governor Pataki:

We have completed our review of the Amendment to the Tribal-State Compact (Compact Amendment) between the St. Regis Mohawk "Tribe (Tribe) and the State of New York, executed on June 2, 2000. For the following reasons, the Compact Amendment is hereby disapproved.

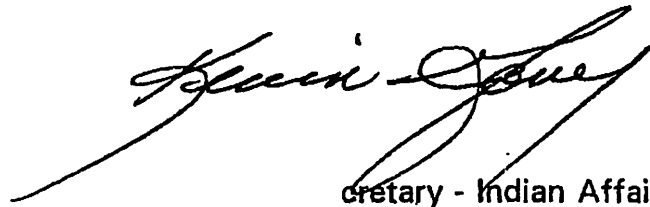
The Compact Amendment authorizes the Tribe to operate Electronic Gaming Devices (EGDs) that can offer the following two games: electronic keno and electronic pull-tab tickets. In exchange for the "exclusive" right to operate these gaming devices, the Tribe agrees to a formula for revenue-sharing with the State, paying, on a graduated scale, from 10% of net revenues of EGDs to revenues under \$30 million per year, to 25% of net revenues of EGDs for net revenues exceeding \$72 million per year.

The State's July 14, 2000, letter states that the New York Lottery does currently operate an electronic keno game called "QuickDraw," but that the Compact Amendment permits the Tribe to operate a much more expansive and interactive electronic keno game, with none of the limits contained in the State Lottery's "QuickDraw" authorization. Thus, the Tribe derives a substantial economic benefit through its exclusive right to operate the electronic keno game through the EGDs. The Compact Amendment provides that in the event a change in State law is enacted to permit the operation of EGDs by any other person than an Indian tribe, the Tribe is relieved of its payment obligation. However, Section XXIX(B)(3) of the Compact Amendment specifically provides that the conduct of any lottery game by the New York State Lottery shall not affect contributions to the State by the Tribe for EGO authorization. We believe that this provision is unacceptable because revenue-sharing payments to the State would not decrease or disappear if the State Lottery is authorized to operate a version of electronic keno that is similar to the Tribe's electronic keno game played through its EGDs. In our view, any event that eliminates or reduces the exclusivity enjoyed by the Tribe must trigger the elimination of, or a reduction in, the Tribe's payment obligation. If it does not, the provision runs afoul of 25 U.S.C. § 2710(d)(3)(C)(4) of the Indian Gaming Regulatory Act (IGRA) which prohibits the imposition of any tax, fee charge other assessment upon an Indian tribe to engage in a class III activity.

In addition, we are very concerned, as trustee, that the Compact Amendment apparently requires the Tribe to make payments to the State even if the Tribe's EGDs are not profitable. To address this concern, we would recommend that the Compact Amendment either adopts the definition of "net revenues" contained in 25 U.S.C. § 2703(9) of IGRA, or be modified to include a provision exempting a certain amount of net revenues from revenue-sharing provisions of the Compact Amendment that ensures profitability.

We regret that our decision could not be more favorable at this time.

Sincerely,



Secretary - Indian Affairs

Similar Letter Sent To: Honorable Hilda Smoke  
Honorable Alma Ransom  
Honorable Paul Thompson  
Chiefs, St. Regis Mohawk Tribe  
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