



THE SECRETARY OF THE INTERIOR  
WASHINGTON

November 6, 1992

Honorable Barbara Roberts  
Governor of Oregon  
Salem, Oregon 97310-0370

Dear Governor Roberts:

The Department of the Interior has now completed our review of the Siletz Indian Tribe's (Tribe) trust application. I seek your concurrence on findings of fact and two-part determination that the acquisition is in the best interest of the tribe and not detrimental to the surrounding community.

The Department received your comments, dated October 26, 1992, and your other previous comments on the proposed trust acquisition by the tribe in Salem, Oregon. I appreciate the quickness with which your office reacted to our last request for comments. Be assured that the decisions on the proposed acquisition are not being made in isolation, but are being made upon review of all available resource material on Indian gaming facilities.

Based on Departmental review, comments received and the information provided by the tribe, we developed findings of fact on which we have made the two-part determination required under Section 20 of the Indian Gaming Regulatory Act (IGRA). These findings of fact are attached along with supporting documentation for your review and comments. Based on these findings, I conclude that the proposed acquisition in Salem is in the best interest of the tribe and that the acquisition would not be detrimental to the surrounding community. This determination does not constitute a final decision to acquire the land in trust under 25 C.F.R. Part 151.

Under Section 20 of the IGRA, I now seek your concurrence in this determination. Because of our desire to respond to the tribe's application in a timely manner, your response is requested no later than close of business on November 20, 1992.

Sincerely,

Enclosures

FINDINGS OF FACT:  
BEST INTEREST OF THE TRIBE

I. GROSS AND NET INCOME TO TRIBE AND OTHER ENTITIES:

Based upon a financial summary prepared by the Siletz Indian Tribe (Tribe), the projected gross for the Siletz Tribe is \$11,000,000 in the first year, and in excess of \$16,000,000 by year five. Exhibit 41. The financial summary is based upon a market study completed by Fritz Opel in September 1992. Exhibit 42. (Both of these financial documents contain proprietary information. **The documents should not be copied or released.**) The Market Study identifies population centers, types of games, patrons and their incomes, hours of operation and costs and cash flows. The net profits from the casino operation are estimated at \$7,500,000 in year one, and \$12,000,000 by the fifth year. The Tribe estimates steady increases in each year. In addition, salaries and wages of \$500,000 a year are anticipated. This would have a positive impact on tribal members (and other Indians and non-Indians) who are employed at the casino.

The Tribe has not yet contracted for management services, but acknowledges that there would be costs associated with any such an agreement. After payment to a management company, the Tribe projects total tribal receipts at \$5,500,000 in the first year to \$7,439,000 by year five.

The Tribe estimates a total construction cost of \$8,800,000. This construction infusion would, obviously, have a positive impact on the local community, both in terms of labor and supplies.

The City of Salem, in an April 8, 1992, memorandum from the Salem City Manager to the Mayor and City Council, estimated that the gaming facility project would have a total economic impact of \$20,000,000 [at page 8]. Exhibit 32. The memorandum further states that the gaming center would create other jobs within the community for support services (such as laundry, food vendors, etc.). The City Manager believes that up to 200 ancillary jobs could be created, depending on the type and extent of adjacent development.

It is anticipated that 500 gaming establishment employees would make an estimated \$7,000,000 in purchases each year and that patrons of the center would spend approximately \$3,500,000 a year directly on local goods and services [Application at page 5]. Exhibit 36.

The Tribe has agreed to provide local governments with a service contribution equal to the amount of any taxes or other service fees that would be paid on the property [Application at page 5]. Exhibit 36. The City estimates that this amount would be \$76,000 [City Manager memo of April 13, 1992, at page 8]. Exhibit 33.

## **II. PROJECTIONS OF MANAGEMENT AND TRIBAL EXPENSES:**

The Tribe has provided estimates in their financial summary, addressing the issue of expenses. The Tribe has not yet contracted for management services, but acknowledges that there would be costs associated with such an agreement. They based their findings upon the maximum percentage allowable, under the Indian Gaming Regulatory Act (IGRA), for a management contract. Management fees are estimated at \$3,000,000 for the first year, up to \$5,000,000 in the fifth year.

The Tribe anticipates that administrative expenses will range between \$1,165,000 and \$1,417,000 and include items such as salaries and wages, security, supplies, trash removal, and insurance. The Tribe also acknowledges, and agrees to pay, the initial start-up costs of septic and sewer hook-up, water installation, and other improvements that will be required for the property.

On April 8, 1992, Chairman Delores Pigsley informed the City of Salem that the Tribe is prepared to cooperate regarding service contributions. This amount has not been identified, but it would be an additional expense to the Tribe. It would also be an income for other entities (the City). Exhibit 32. In the March 23, 1992, meeting of the City Council of Salem, the Tribe testified that they did not want a negative impact on the police and fire services and tax payments of the City and thus intended to consult with the City about subsidies for those services [at page 353]. Exhibit 25.

The Tribe provided financial estimates for a variety of games. These games include Bingo, Pull Tabs, Card and Video Poker, and Off-Track Betting.

The Tribe anticipates that Bingo and Pull Tab income will gross \$18,622,000 in year one and result in a net income of \$3,200,000. By the fifth year of operation, the anticipated gross from Bingo will be \$25,870,000, netting \$4,620,000. These estimates are based upon days of operation, number of games, and projected growth rate.

The Tribe includes cost of prizes, costs of goods to play the game (i.e., paper, etc.), transportation (bus costs), and operating expenses when calculating this projection. Also included are receipts such as souvenirs and miscellaneous trinkets and food and beverage income. The Tribe bases this finding on historical data from comparable operations.

It is projected that Card and Video Poker will gross \$22,700,000 in year one and net the Tribe \$6,710,000. By year five, the gross take is anticipated at \$33,233,000, with a net profit of \$9,844,000. This estimate is based on a projected number of machines, number of tables, projected number of player seats per table, operating days and hours. Costs include operating expenses, prize expenses, and advertising. The information is based on evaluations of comparable operations.

Off-Track betting will provide a gross profit of \$2,100,000 in the first year of operation and a net revenue of \$1,557,000. The Tribe anticipates that by year five, the gross profit will be \$3,320,000, with a net of \$2,166,000. The analysis projects races being offered from California and other tracks and estimates, annual attendance and related business costs. The Tribe bases their findings upon comparable operations, including Southern California Off-Track Wagering, Inc.

While there are no facilities exactly like the proposed center, the Tribe analyzed data from the Sycuan Gaming Center in El Cajon, California, and Mystic Lake Casino in Prior Lake, Minnesota. Mystic Lake was determined to be more like the Siletz center in terms of games offered, commuting distance from metropolitan areas, and population base [Fritz Opel-Market Study, Sept. 1992 at page 10]. The Market Study identifies the following as their sources of information: John McCarty of Leech Lake Casino; Teri Totenhagaen of Mystic Lake Casino; Mike Zheutlin of Central City, Colorado and Seminole Bingo, Clearwater, Florida; National Decision System-1990 census data; Fritz Opel, Sycuan Gaming Center, El Cajon, California; 1990 and 1992 Sycuan Gaming Center Customer Market Study; 1992 Lummi Casino marketing plan; Chastain Economic Consulting; Salem Community Development Department; Portland Metropolitan Chamber of Commerce; Portland State University Center for Population Research; and First Interstate Bank of Oregon, Oregon Economic Indicators [Market Study of September 1992 at page 80].

### **III. PROJECTED EMPLOYMENT:**

It is anticipated that 500 jobs will be generated by the center. This will address, as well as help alleviate, the unemployment rate of the Tribe, as well as the State. The tribal unemployment rate currently runs 3-5% higher than the State as a whole.

There are approximately 15,000 other Indians who live within the Tribe's service area, and they will also benefit from this project [Impact Statement at page 1]. Exhibit 30. It is anticipated that 2/3 of the employees would be non-Indians from the local area [Application at page 5]. Exhibit 36.

The Tribe has committed to employing tribal members and since many of the members live within commuting distance, this project is a very real means of providing employment to members. Currently 319 tribal members live in Marion County (where the project is proposed), 290 live in metropolitan Portland, 120 reside in Eugene or Springfield, and 456 live in Lincoln County. All are within the Tribe's service area and within one-half hour commuting distance from the center. [see Impact Statement at page 1] Exhibit 30.

#### **IV. IMPACT ON INDIAN COMMUNITY:**

No mass exodus is anticipated from the tribal center of Siletz. The Tribe is proposing that bus/van transportation be provided to the proposed gaming establishment: a distance of about one and one-half hours away [Impact Statement at page 1]. Exhibit 30. However, it is likely that some tribal members will be unwilling to commute this distance.

#### **V. PROJECTED TRAINING BENEFITS FOR TRIBAL EMPLOYEES AND BASIS:**

The Tribe will hire and train (state-certified) law enforcement and security personnel for their facility [Application at page 18]. Exhibit 36. Tribal members will also likely receive the opportunity to learn other gaming-related jobs and service jobs.

#### **VI. PROJECTED BENEFITS TO TRIBAL COMMUNITY FROM INCREASED TRIBAL INCOME:**

The Tribe has expressed its commitment to the betterment of tribal members by committing gaming revenue to funding educational scholarships, provide homes and home improvements, provide jobs, and enhance tribal sufficiency via other economic development [City Council meeting minutes of March 23, 1992]. Exhibit 29. In addition to educational scholarships, vocational training and on-the-job training would be available [Application at page 2]. Exhibit 36.

The Tribe will use revenues to increase health services for tribal members. This would include funding assistance for the Tribe's clinic, development of other clinics, and dental care and eyeglasses [Application at page 2]. There would also be enhanced social services and counseling, including foster care, elder care, and abuse counseling [Application at page 2].

The Tribe will use funds to increase cultural awareness and cultural protection. This includes archeological and grave sites [Application at page 3].

The Tribe sees gaming as a means of promoting other economic endeavors, including the purchase of additional forest lands [Application at page 3].

#### **VII. PROJECTED BENEFITS TO THE RELATIONSHIP BETWEEN THE TRIBE AND SURROUNDING COMMUNITY:**

The Tribe anticipates that up to 2/3 of their 500 employees will be from the non-Indian surrounding community [Application at page 5]. Exhibit 36. Further, the Tribe has committed to providing its fair share of funding for infrastructure and governmental services. This evidences that the Tribe will not be an undue burden on

the local community but will instead support the local government and increase its ability to provide services. As the City sees that the Tribe provides a substantial economic and governmental boost to the City, the City and Tribe's relationship should dramatically improve.

#### **VIII. POSSIBLE ADVERSE IMPACTS ON THE TRIBE AND PLANS FOR DEALING WITH THOSE IMPACTS:**

The City of Salem, in its April 13, 1992, memorandum, raises the question of alcohol problems that are, or could be, present. Exhibit 33. The Tribe addressed those concerns in Chairman Pigsley's April 8, 1992, correspondence to the City. Exhibit 32. The Tribe reiterated its position that no alcohol will be served at the casino. Additionally, the Tribe is prohibited from serving alcohol under Federal law until the Tribe has a certified liquor ordinance published in the Federal Register.

#### **NOT DETRIMENTAL TO THE SURROUNDING COMMUNITY**

#### **IX. CONSULTATION:**

In addition to BIA consultation, the Tribe and its employees were involved in numerous meetings and consultations. Exhibits 25, 26, 28, 29, 31, 32.

There has been extensive vocal opposition to the project within the Salem community. Much of the opposition is based on moral issues and a general opposition to gaming and gambling by the Tribe [see April 13, 1992, testimony at City Council meeting at pages 425-429]. Exhibit 26. However, the Environmental Assessment addressed these comments and found that when the moral and racial comments are factored out, there is general support of the center [EA at page 25]. Exhibit 36.

##### **A. Consultation with the Governor:**

Allegations have been made by Governor Roberts that she has not been provided an opportunity to consult with the Department of the Interior or its agency, the BIA. Nonetheless, it appears that the Governor was aware of the proposal and has had contact with the BIA as early as April 20, 1992. Exhibit 21. The Governor has had ongoing contact with both the Tribe and the BIA [see: Consultation attachment #1 and October 15, 1992, letter to Stanley Speaks, Portland Area Director from Delores Pigsley, Tribal Chairman]. Exhibit 21. All such contacts were taken into consideration as the Area Office prepared its transmittal of the application package and as the Office of the Secretary prepared these findings of fact.

The Governor further alleges that the consultation process violates the Administrative Procedures Act by establishing criteria to be addressed in her comments and by

failing to include criteria which she deemed important. However, the letter seeking consultation only sought to provide examples of issues which the Secretary deemed relevant to his two-part determination and solicited comments on all matters on which the Governor desired to comment. Consequently, the letter seeking comments did not constitute rulemaking or otherwise violate the Administrative Procedure Act.

The Governor primarily objects to the proposed gaming establishment and the games to be played on the basis that they violate State law. However, the IGRA specifically authorizes gaming by Indian tribes on Indian lands and does not require adherence to State law unless such agreement is negotiated in a Class III gaming compact. The Tribe and State must negotiate a compact addressing the regulation of games if the Tribe plans to engage in any Class III casino-type gaming. Nothing requires a compact to be in place prior to a fee-to-trust acquisition request.

Governor Roberts summarily alleges and concludes that the approval of this proposal will automatically result in requests for other off-reservation facilities throughout the State, will automatically result in approvals of these requests and that the approvals will result in widespread urban casinos throughout the State of Oregon. There is no discussion on how such a possibility differs from the already widespread gaming in the State nor is there any basis for such conclusions. Regardless, such conclusions are not particularly relevant to a determination on whether the proposal is in the best interest of the Tribes or not detrimental to the surrounding community.

The Governor, in the consultation letter, also addresses other Tribe's comments that the territory is not aboriginal to the Siletz Tribe. The Siletz Tribe, at Tab 7 in the Application Notebook, Exhibit 36, identified an historical connection to the Willamette Valley. This issue too does not appear to be particularly relevant to the two-part determination.

The Governor also addresses a number of issues addressed elsewhere in the findings of fact including, alcohol problems, governmental costs, increases in crime, and other socio-political risks.

#### B. Consultation with City of Salem:

Apparently, the City began consulting with the Agency on March 20, 1992, when the Siletz Agency notified the City that a fee-to-trust acquisition proposal was under consideration by the Agency. The Agency provided a list of specific questions Exhibit 17. During this process the City provided copies of meeting minutes and letters of opposition and stated that the City had voted to support the community in opposing gaming. Those specific issues raised by the City are addressed elsewhere in the findings of fact.

C. Consultation with Marion County:

Consultation began between the County and the BIA, also on March 20, 1992, when the County was notified via the County Commissioners, that a fee-to-trust acquisition was being considered. Specific issues were addressed to the County. Exhibit 18. The County Sheriff responded with subjective findings [Memo of October 12, 1992] that the center would not be compatible with the surrounding area, that there could be a traffic and pedestrian problem, that there would be a loss of the tax base, and that there were fire and safety concerns. Exhibit 18. No facts were provided to support these concerns. Additionally, the District Attorney cites Measure 5 as reducing the office staff and thus impeding his ability to handle an added caseload [Letter of October 15, 1992]. Exhibit 18. No facts were cited to show added caseload responsibilities as a result of the center. As indicated above, however, the Tribe is willing to work with the County so as to avoid an adverse impact on the County to provide necessary services.

D. Consultation with Neighboring Tribes:

Consultation with neighboring Tribes was carried out by the Siletz Agency. Some tribes provided written response and others did not. The Area Director, in his transmittal memo of October 21, 1992, addressed the comments that were received from the three responding tribes [at page 11]. Exhibit 1.

1. Grand Ronde:

Concerns were expressed over the establishment of a center in the Grand Ronde aboriginal homeland without the Tribe's consent. In response, the Siletz Tribe submitted a March 1991 report confirming that the Siletz Tribe also had historic and aboriginal ties to the area. Exhibit 39. Additionally, Marion County is within the recognized service area of the Siletz, as well as Grand Ronde Tribe.

2. Cow Creek Band of Umpqua:

The Cow Creek Tribe objects to this proposal, asserting that the project is outside of the Siletz Tribe's aboriginal homeland, and that it would adversely impact the Cow Creek Gaming Enterprise. Exhibit 38. However, the Cow Creek gaming project is over 150 miles from the Siletz project. Consequently, economic competition with the Siletz Tribe should be minimal. Furthermore, the Cow Creek Tribe is not within the surrounding community. Therefore, although the Secretary of the Interior may desire to take the Cow Creek concerns into consideration when making a final decision on the proposed acquisition, the Cow Creek gaming establishment is not relevant to the two-part determination.



3. Coos, Lower Umpqua and Siuslaw Indians:

This Tribe objected, supporting the concerns of the Grand Ronde Tribe. Exhibit 40.

**X. PROJECTED BENEFITS IN TOURISM:**

A Walker, Minnesota, individual testified that the casino in her home was viewed as an additional tourist attraction as well as a facility which increased employment. [April 13, 1992, testimony, at page 439] Exhibit 26.

**XI. IMPACTS ON THE SOCIAL STRUCTURE OF THE COMMUNITY:**

Concern over increase in crime as a result of the casino has been expressed, however no real evidence of such increase has been presented [Application at page 18]. Exhibit 36.

While this proposed center is larger and more centralized, there is already extensive gaming in the local community. The State of Oregon currently allows 19 different types of games, played under certain conditions [see City Council minutes of April 13, 1992, at page 429]. Exhibit 26. The Cheers Restaurant in the City of Salem currently allows for off-track betting on the premises [see City Council minutes of March 23, 1992, at page 354]. Exhibit 29. Oregon advertises the State lottery in the community and has video lottery terminals in the community.

Local charitable organizations questioned the economic impacts on their non-profit gaming operations, and thus the loss of social services that they could provide. [April 13, 1992, City Council testimony at pages 432-433]. Exhibit 26. This issue is one of competition, as well as reduced social services. The Tribe testified in response to these concerns that it is willing to donate monies to local charitable organizations [see testimony of April 13, 1992, at page 437 and testimony of March 23, 1992, at pages 393-394]. Exhibits 25, 26. An exact tribal contribution has not been defined. Additionally, the Tribe has agreed to explore the possibility of running special games at the center with the proceeds dedicated to charities [Application at page 21] Exhibit 36.

Governor Roberts, in her October 26, 1992, letter, states that casinos raise significant risks to the social, political, and moral fabric of the community and society [at page 8] Exhibit 37. She asserts concern over the perceived link between casinos and organized crime and that the casinos' historic links to prostitution and loan sharking are more likely to lead to political corruption [at page 8]. She provided no evidence of the validity of such links to corruption in tribal gaming. Furthermore, the Department of the Interior has not substantiated such claims in its oversight role in Indian gaming. Additionally, the issue of public health and safety was addressed in

the Environmental Assessment and was determined to have no significant impact on the community. Exhibit 36, [Tab 6-page 16-17]. The record revealed little evidence that crime would be a problem, as opposed to the fear that crime would be a problem.

Governor Roberts further states that casino gambling apparently increases the incidence of pathological gambling, resulting in personal hardships and financial loss for the gambler and their family. She alleges that a casino can generate significant negative social effects in the form of increased crime rates, greater transient population, increased prostitution and a change in the tone and tenor of a community. She cites William R. Eadington's studies as support for this feeling [October 26, 1992, letter, at page 8-9]. Exhibit 37. Additionally, Gary Eide, City Manager, cites Mr. Eadington's findings as presented to Council Bluffs, Iowa [Consultation letter of City of Salem, October 23, 1992, at page 3]. Exhibit 20.

In response to the gaming proposal at Council Bluffs, the local community in Council Bluffs organized a Task Force to review the types of impacts identified by Mr. Eadington. Among other things, the Casino Task Force Report of May 2, 1990, noted that potential social problems could occur. This included crime and violence, family problems, delinquency, prostitution, loan sharking and compulsive gambling [Study at pages 18-20]. Exhibit 22. Nonetheless, the study found that these problems can be mitigated and the benefit to the community for the project outweighed the impact on the individual [at page 19]. A strong security/police presence and regulatory controls would assist in reduction of crimes relative to the casino and combat some of the social problems that would arise [at pages 19-21].

The Study found that while social problems often arise with an influx into the community, other positive impacts also result. There is an increase in participation on community boards and groups [at page 21-22]. As new people come to the community, it appears that they bring new ideas and new desires and work to make the community better and more progressive.

The City of Salem has expressed a concern about increases in gambling related crimes such as drugs, prostitution, theft, and the possibility of organized crime infiltration. [City letter, October 23, 1992] Exhibit 20.

The City cites a report entitled Report in Opposition to Legalized Casino Gambling in New York State, Office of the Attorney General, May 20, 1981, to say that the commentators have analyzed crime statistics and note a significant increase in crimes against property and person in the area of newly established gambling operations [City letter, October 23, 1992]. The 11-year old report was not included in the submission.

The City also references the report of a Chicago commission studying gaming, that found that the management firms of at least two Indian casinos have been infiltrated by organized crime skimming and money laundering operations. Report to the Mayor, City of Chicago Gaming Commission, June 10, 1992. The City also cited two other reports on this subject: Racketeering and Organized Crime in the Bingo Industry, Pennsylvania Crime Commission, 1991; Hearings Before the Special Committee on Indian Affairs, United States Senate, February 2-9, 1989 [City letter, October 23, 1992]. None of the reports were included in the submission.

On the other hand, the Department of Justice, which is responsible for tracking organized crime, believes that to date there has not been a widespread or successful effort by organized crime to infiltrate Indian gaming operations [Statement, of Paul L. Maloney Select Committee Hearings - March 18, 1992]. Exhibit 11.

Salem is proud of its image as an All American City, and alleges that gaming on the level proposed by the Tribe runs counter to the basic values expressed by its citizens. The citizenry of Salem believes that the facility will detract from the image of the city and adversely affect the livability of the area [City letter, October 23, 1992]. Exhibit 20.

Many in the local community believe that the social costs to the community outweigh the potential economic and other benefits advanced by the Tribe (this in spite of the fact that the Tribe offered many mitigating measures such as a no alcohol policy, in-lieu-of-tax payments and other contribution fees) [City letter, October 23, 1992].

They fear negative change in the character of the community and decline in family values following the introduction of high stakes gambling to a community like Salem [City letter, October 23, 1992]. Exhibit 20.

However, nowhere in the comments received is there any acknowledgment of the widespread gambling already in the State and in the City.

The local government's comments appear to be based on fear rather than fact and are directly contrary to the Environmental Assessment prepared by an objective party. The proposed facility's impact on such socio-economic conditions as employment and income in Salem will be positive. (EA. Tab 6- Page 18). Exhibit 36.

The proposed gaming facility should have no impact on attitudes, expectations, lifestyles and cultural values. The two largest Class A bingo gaming operations in the state, grossing \$10 million per year, are located in Salem. (EA. Tab 6-Page 19) Exhibit 36.

The facility also will substantially increase revenues to the county, city, school district and transit district. The Tribe has agreed to pay a service contribution on the property equivalent to the property taxes which would have been assessed. In

addition, the Tribe has proposed to fund additional, specific governmental costs incurred as a consequence of the gaming center. (EA. Tab 6-Page 19) Exhibit 36.

## **XII. IMPACT ON INCOME AND EMPLOYMENT IN THE COMMUNITY:**

The City of Salem in a memorandum from the Salem City Manager to the Mayor and the City Council, prepared for an April 13, 1992, Council meeting, estimated that the gaming facility would have a total economic impact of \$20,000,000 and would create up to 200 ancillary jobs, depending on adjacent development [at page 8]. Exhibit 33.

The proposed facility will have two types of impacts, an immediate increase in local spending from construction and a continued economic impact on operations [June 1, 1992, letter of Chastain Economic Consulting at page 9]. Exhibit 36 at Tab 20. These jobs include direct (on-site) and indirect jobs (support services). The increase in these jobs will create additional jobs as a result of increased spending outside of the gaming facility at theaters, hairdressers, grocery stores, etc. [Chastain at page 9].

It is estimated that the economic activity multiplier effect of this center will range between 1.26 (wages, salaries, etc) and 2.77 (other benefits) [Economic Benefits of Tribal Gaming in Minnesota, March 1992, quoted by Chastain at page 10]. Based on projections of employed individuals per dollar spent, the construction phase of the center will produce 90 direct jobs. There will be additional indirect and induced employment [Chastain at page 10].

The operating expenditures of \$11.7 million in the first year will generate 600 full and part time jobs. If it is assumed that 85% of the total amount will be spent in Marion County -- or about \$10 million - there will be an additional job impact of 130 [Chastain at page 10].

Due to the location of the center and easy access, it is anticipated that spending will come from non-Salem visitors who will infuse new money into the economy. These impacts will be significant for the local area [Chastain at page 11].

Of additional note, the Minnesota Study of Economic Benefits of Tribal Gaming noted a strong correlation between increased jobs and a decrease in AFDC (social welfare) recipients. This will benefit both Tribal members and others who may be employed, rather than receiving assistance, and the community as well which should see a reduction in the amount of assistance recipients [Chastain at page 11].

## **XIII. ADDITIONAL AND EXISTING SERVICES REQUIRED OR IMPACTED, COSTS OF ADDITIONAL SERVICES TO BE SUPPLIED AND SOURCE OF REVENUE:**

Oregon is a Public Law 280 State (18 U.S.C. Section 1162), and thus the issue of

jurisdiction is defined by that statute and the Indian Gaming Regulatory Act. Generally, local law enforcement, as well as the Tribe, has jurisdiction over

non-gaming crimes which occur on the Tribe's property. A Class III compact will further delineate the respective responsibilities of the State and the Tribe over a Class III facility. The Tribe has agreed to compensate the State for the costs of providing enforcement and background checks. It will contribute to the State and local law enforcement through service contributions and payroll and income taxes of employees [Application at page 18]. Exhibit 36.

The Marion County District Attorney alleged that the district attorney's budget would not be sufficient to respond to this project. The Tribe confirms, however, that it will pay its fair share of tax money or other funding mechanism that may be authorized [Application at page 19]. The Tribe alleges that it is the property tax limitation in Oregon, not the Tribe's project, that is reducing the resources of the community's law enforcement and prosecutorial staffs. The Tribe asserts that the tribal improvements and payments will result in more money for the district attorney's office [Application at page 20]. Exhibit 36.

The Tribe plans to fund full fire protection and emergency medical services. This will either be done by establishing a Tribal department or by contracting with local services. The Tribe will fund fire protection and emergency medical services via tax substitutes or direct funding [Application at page 21]. Exhibit 36.

Testimony at the April 13, 1992, City Council meeting: No increased crime reported by an individual who contacted the Davenport, Iowa, city office as a result of the riverboat gambling in Davenport [at page 343]. Exhibit 26. The Sycuan Chief of Police also testified that there is not a lot of crime at the Sycuan Center (near El Cajon, CA), including organized crime and prostitution [at page 439].

On August 27, 1992, the Marion County Sheriff's Department sponsored a meeting regarding law enforcement problems and Indian Gaming. The Sheriff did not provide information about this meeting, but the Tribe summarized the meeting by stating that federal officials were present and discussed at least 33 specific tribes with regard to their gaming activities (Eastern Area, Puget Sound Agency and Portland Area). In not one case did any of the officials say that there was an increase in criminal activity or that the operation was connected to a criminal activity [Application at Attachment 20]. Exhibit 36.

#### **XIV. PROPOSED PROGRAMS, IF ANY, FOR COMPULSIVE GAMBLERS AND SOURCE OF FUNDING:**

The local community currently has a group identified as GAMBANON which is an option for compulsive gamblers. The Tribe is willing to post the phone number of such programs in the casino [March 23, 1992, City Council testimony at pages

349-350]. Exhibit 25.

The Tribe has offered to post notices at the center to inform individuals where help can be found and contribute to organizations that deal with addictions [Impact Statement at page 2]. Exhibit 30.

Additionally, the Tribe will be offering counselling services to Tribal members through enhanced social services. This will help individuals in all areas of the family, abuse, and improve skills [Application at page 2]. Exhibit 36.

## **XV. IMPACTS ON ENVIRONMENT:**

The proposed project is one where vacant land will be developed and environmental impacts could occur. Cascade Earth Sciences, Ltd., and the Siletz Tribe prepared an Environmental Assessment (EA - found at Tab 6 of the Tribe's Application which is attached as Exhibit 36) covering the project. The site was inspected thoroughly by Cascade Earth Sciences, Ltd. in preparation for the EA. The BIA, Siletz Agency staff conducted a physical survey of the property and completed the Level I Contaminant Survey Checklist on July 6, 1992. Exhibit 4.

A Finding of No Significant Impact (FONSI) based upon the EA was issued by Siletz Agency on June 29, 1992. Exhibit 2. A Notice of Availability was prepared and sent to interested parties on June 30, 1992. Exhibit 3. In addition, the Notice of Availability was published in the Salem Statesman Journal and Portland Oregonian during a two-week period beginning July 7, 1992. The Siletz Agency prepared a Supplemental Environmental Assessment, Exhibit 35, to address additional concerns raised by the City of Salem. The Portland Area Office Area Director reviewed and completed a FONSI based on the EA and the Supplemental Environmental Assessment. Exhibit 5.

A review of the proposed facility site by the State Historic Preservation Office, the Confederated Tribes Sacred Lands Committee and the Confederated Tribes Culture Committee indicates this site has no archeological significance nor are there historical, cultural, or religious uses associated with the site. (EA. Tab 6-Page 11.) The parcel is not part of the wilderness area. Therefore, there is no impact on wilderness caused by the proposed facility. (EA. Tab 6-Page 20.)

The following findings discussed below are based on the Environmental Assessment, the Supplemental Environmental Assessment, and other documents as referenced.

## **XVI. COMMUNITY INFRASTRUCTURE:**

### **A. UTILITIES**

#### **1. Zoning**

The proposed site is in the city limits and currently subject to Salem planning and development codes. The property is designated as "Commercial" in the Salem Comprehensive Plan, and the current zoning designation is "Commercial-Retail." The following land uses are among those permitted under the codes in this zone: gambling establishments and machines, hotels and motels, and eating and drinking places. (EA. Tab 6-Page 16 & 20.)

#### **2. Water**

This property is located within an urban area which has an existing 6-inch water line in Portland Road adjacent to the subject property. This is not adequate to serve the proposed facility. The Tribe has agreed to construct a 20-inch water line from the intersection of Portland Road and Hayesville Road to the south boundary of the subject property as a condition of developing the facility. (EA. Tab 6-Pages 14-15 & 19.)

#### **3. Sewer**

There is an existing 8-inch sewer line in Portland Road adjacent to the subject property. This facility is inadequate to serve the proposed development. The Tribe agrees to construct an 8-inch line north and west to Blossom Drive and to construct that portion of the proposed 10-inch line at Blossom Drive required to connect to the existing 10-inch line at Indian School Road as a condition of developing the facility. (EA. Tab 6-Pages 15 & 19.)

#### **4. Storm Drainage**

The facility will have no impact on city storm drain systems. There is an existing 33-inch line along the east side of Portland Road adjacent to the subject property that has sufficient capacity to serve the subject property. (EA. Tab 6-Page 15 & 19.) The site is well-drained and has no surface water. There is an intermittent drainage northwest of the site which flows into Claggett Creek. Claggett Creek is a permanent drainage channel approximately 1 mile west of the site. (EA. Tab 6-Page 9.)

## B. ROADS

### 1. Access

Access to the site is from Portland Road, via a 60-foot wide access adjoining the southeast corner of the site. (EA. Attachment A, Page 2)

### 2. Traffic Impact

Transportation networks will not be impacted by the proposed facility. According to a March 31, 1992, staff report regarding the Tribe's proposed facility drafted by the city transportation/development manager "Portland Road has adequate capacity to handle this [facility's] projected increase in traffic." To the extent any subsequent traffic impacts can be identified (including traffic management costs, i.e. signs and traffic lights), the Tribe has agreed to subsidize such costs. (EA. Tab 6-Page 20; EA - Attachment E; Application, page 17; Letter from Tribe to City of Salem, dated April 8, 1992, Application, Tab 12.)

### 3. Transportation Impact Analysis

A report was prepared to assess the likely traffic-related impacts on the surrounding street system associated with the proposed construction of a Gaming Center in the Chemawa area in Salem, Oregon. (Page 3) TRANSPORTATION IMPACT ANALYSIS FOR THE SILETZ INDIAN GAMING CENTER, Salem, Oregon; prepared by Kittelson & Associates, Inc.; dated August 1992, Page 3. Exhibit 6.

Based on discussions with the Oregon Department of Transportation (ODOT) and City of Salem staff, the project study area has been identified as including the intersections at Portland Road/Hayesville Drive, Portland Road/Ibis Street, and Portland Road/Blossom Drive. (Page 4)

There are two positive aspects of the proposed gaming center operations concerning traffic safety. Firstly, there will be no alcoholic beverages served on site. Secondly, the provision of buses for evening bingo players will reduce the potential number of site generated vehicles during all evening peak hours, thereby contributing to a decrease in potential exposures to accidents created by the addition of project-generated traffic to the adjacent street system. (Page 19)



Based on the traffic analysis, the report concluded at Page 40 that:

- All key intersections in the study area currently operate at acceptable levels.
- The greatest traffic impacts resulting from the construction of the proposed project will occur in the evening peak hour of the adjacent street system. The project by itself will however generate its highest hourly volume during a typical week on a Saturday evening.
- The proposed site access located near Ibis Street off Portland Road will provide sole access in the short term to the project, and will operate acceptably. In addition, all other key intersections will continue to operate acceptably with completion of the project.
- In the long term, the project access at Hayesville Drive/Portland Road will operate acceptably. In addition, all other key intersections will continue to operate acceptably with completion of the project.
- The operation of nearby driveways to the proposed site access will not be significantly affected by the operation of the project access in the short term as a consolidated four legged intersection with Ibis Street.
- In the long term, Hayesville Drive will be required to be extended west of Portland Road to provide for two travel lanes as far as Phyllis Avenue.
- Traffic safety on Portland Road and at the site accesses will be at acceptable levels after development of the project.

The report also recommended that:

- It is recommended that the proposed project access be aligned with Ibis Street in the short term, thereby providing for safe and efficient traffic operation at that location. It is recommended that the two-way center turn lane on the south side of Ibis Street be striped to accommodate the northbound to westbound left turn movement. The site access approach should provide for two egress lanes and one ingress lane.
- In the short term, it is recommended that appropriate advisory signs be placed on Interstate 5, Chemawa Road, and Portland Road to direct inbound project traffic from the Portland area using Interstate 5 to the

site through the Chemawa Road/Portland Road corridor, thereby eliminating any adverse impacts on the Hayesville Interchange southbound to northbound U-turn movement.

° In the long term, it is recommended that the access to the project be provided off Hayesville Drive west of Portland Road. Hayesville Drive will therefore have to be extended west of Portland Road as far as Phyllis Avenue, and constructed to provide for two travel lanes. It is also recommended that a 175 foot left turn storage lane be provided for the northbound to westbound movement at Hayesville Drive. The eastbound approach on Hayesville Drive at Portland Road should be widened to provide for left turn and through/right configuration.

° A breakaway emergency gate should be provided off Phyllis Avenue in order to provide for alternate emergency access to the site. This access shall prohibit regular vehicular access.

## **XVII. OTHER:**

### **A. Land Resources**

Short-term consequences that would impact the environment include dust and noise associated with construction. Those short-term consequences can be mitigated through dust suppression techniques and restriction of construction activities to normal daytime working hours. (EA. Tab 6-Page 17.) There are no impacts on timber, mining, and recreational resources since those uses are not associated with the proposed site. (EA. Tab 6-Page 19.)

### **B. Water Resources**

The proposed project will have no impact on water resources. (EA. Tab 6-Page 18.)

### **C. Air Quality**

The additional 1,500 vehicle trips per day generated by the facility will not be of sufficient volume to impact the area's air quality. The fact that most of those trips will be generated in off-peak traffic hours further reduces the possibility of air quality impact. (EA. Tab 6-Page 18.)

#### **D. Living Resources**

The proposed site can be best described as a former farmstead that now functions as a large vacant lot, currently used by adjacent trailer court residents as a short-cut to nearby shopping facilities. The entire area is a disturbed environment. The project will have no significant impact on living resources. (EA. Tab 6-Page 18)

The U.S. Department of Fish and Wildlife stated in an October 19, 1992, letter, Exhibit 10, that the site was inspected twice and that no listed, proposed, or candidate threatened or endangered species were found. The requirements of the Endangered Species Act have been met, including the consultation process.

There are no impacts on hunting, fishing, and gathering since those uses are not associated with the proposed site. (EA. Tab 6-Page 19.)

#### **E. Cultural Resources**

The site has no cultural significance. It lies in an area that was once transitional territory between the traditional homelands of the Pudding River and Santiam tribes. (EA. Tab 6-Page 18.)

#### **F. Other Values**

The parcel is not part of a wilderness area. Therefore, there is no impact on wilderness caused by the proposed facility. (EA. Tab 6-Page 20.)

Construction of the facility may result in short-term sound and noise impacts on the environment that can be readily mitigated. (EA. Tab 6-Page 20.)

Operating a facility as large as this proposed gaming center creates a possible impact on public health and safety services. (EA. Tab 6-Page 20.)

The Tribe has agreed to provide improvements to the City infrastructure that would be required of any developer of a similarly sized project. (EA. Tab 6-Page 21.)

The tribe's offer to provide a service contribution to local jurisdictions will ensure that the tribe is providing its fair share of the costs

associated with public health and safety service in the Salem area. (EA, Tab 6-Page 21.)

No evidence of environmental contamination was observed during the Site inspection. No physical evidence of underground storage tanks, past or present, was found on the Site. Although miscellaneous debris has been dumped at the Site, particularly in the area nearest the trailer court, current use of the Site is not considered a significant environmental threat. (EA, Attachment A, Page 10; Level I Contaminant Survey, (Exhibit 4)).

The 16-acre parcel, adjacent to K-Mart, N. Portland Road, in Marion County, will have no effect on sites on, or eligible for inclusion on the National Register of Historic Places. (EA, Attachment C)

## **XVII. CITY OF SALEM'S RESPONSE TO ENVIRONMENTAL ASSESSMENT**

The City of Salem submitted a letter dated July 29, 1992, in response to the Environmental Assessment on the proposed fee to trust conversion of the 16 acres. Exhibit 7. The City stated the letter should be included in the administrative record as an objection to the adequacy of the EA and the FONSI. The City alleges the EA is inadequate in that it 1) fails to identify or consider primary environmental impacts associated with the proposal that have significant adverse affects on the human environment, and 2) lacks a sufficient discussion of alternatives and a reasonable basis for the choice made. The "primary environmental impacts associated with the proposal" that the City alleges the EA fails to consider are 1) crime and crime control problems; and, 2) unmitigated impacts. (Comments relative to crime impact are also addressed in the City's letter of October 23, 1992.) [City letter, July 29, 1992] Exhibit 7.

The City states that the Tribe has not signed an agreement with it to provide mitigating measures relating to lost property taxes, sewer line inadequacies, traffic problems, and other costs of delivering governmental services to the gaming enterprise; and, alleges that until actual contracts with the City and County have been entered into to determine whether and to what extent the impact of lost tax revenues and other public costs are mitigated, such impacts must be fully analyzed. However, no such agreements now exist because the City and County have refused to enter into such agreements. The City cannot refuse to enter into such agreements and then use its own refusal as the justification why the EA is inadequate. The Tribe has done everything the City has asked to date. The City sent a letter to the Tribe in April 1992 with a list of concerns such as taxes, sewers, criminal enforcement, local codes, and serving of alcohol at the proposed facility, and the Tribe responded with a commitment to mitigate all concerns listed [Siletz Tribe's letter, August 19, 1992]. Exhibit 8.

With respect to the comment that the EA inadequately addresses crime and crime control, the Pacific Northwest Regional Solicitor's office has indicated its belief that the EA, as supplemented, adequately addresses the issues of crime. The record revealed little evidence that crime would be a problem--as opposed to the fear that crime would be a problem. The perception that something might happen is not an effect that must be considered [Memo: Office of the Solicitor, Pacific Northwest Region, dated October 20, 1992]. Exhibit 9.

On the question of whether there was a sufficient discussion of alternatives and a reasonable basis for the choice made, the Pacific Northwest Regional Solicitor's office has indicated that the EA adequately considered the alternatives and that there is no requirement that every possible location, particularly those that are speculative, be considered. [Memo: Office of the Solicitor, Pacific Northwest Region, dated October 20, 1992, Exhibit 9; also see Siletz Tribe's letter, dated August 19, 1992, Exhibit 8.]