



MIKE HUNTER  
ATTORNEY GENERAL

May 5, 2020

The Honorable David Bernhardt  
Secretary of the Interior  
U.S. Department of the Interior  
1849 C Street N.W.  
Washington, D.C. 20240

Dear Secretary Bernhardt,

I write concerning the agreements between Oklahoma Governor Kevin Stitt and the Comanche Nation and Otoe-Missouria Tribe submitted to you on April 23, 2020 for purposes of approval as a state-tribal gaming compact under the Indian Gaming Regulatory Act (IGRA). I respectfully request that you disapprove these agreements because they are not authorized by IGRA and out of deference to determinations of state law made by the legal officials of the state.

In particular, I attach an official Attorney General Opinion I issued today that concludes Governor Stitt was without legal authority to bind the State of Oklahoma to these agreements and therefore it cannot be said that the State has entered into a new gaming compact with these tribal nations. I reach this conclusion because, under the statutes and Constitution of Oklahoma, the Governor cannot authorize the violation of state law through a compact with an Indian tribe. While Oklahoma's State-Tribal Gaming Act exempts from the State's criminal prohibitions on gambling certain gaming conducted by tribes that validly enter into the Act's model gaming compact, the agreements forwarded to you by Governor Stitt deviate from the model gaming compact, including by authorizing forms of gaming prohibited by state law and not exempted by the State-Tribal Gaming Act.

Because the Governor lacks authority to "enter into" the agreements he has sent to you, those agreements fail to meet the requirements of IGRA to constitute a valid gaming compact under federal law. 25 U.S.C. § 2710(d)(1)(C), (3)(B). How a state enters into a gaming compact with a tribe, including whether the Governor may do so unilaterally in contravention of state statute, is a core concern of the state's constitutional structure and is therefore a matter of state law. *See Pueblo of Santa Ana v. Kelly*, 104 F.3d 1546 (10th Cir. 1997). In issuing the attached Opinion on the permissibility of the Governor's actions under state law, I act in a quasi-judicial capacity and "state officers are bound by these Attorney General opinions until relieved of that duty" by the courts of Oklahoma. *State ex rel. York v. Turpen*, 681 P.2d 763, 767 (Okla. 1984).

Oklahoma deeply values its relationship with the tribal nations that reside within its borders. They are an integral part of our community, history, culture, economy, and way of life. Their importance demands the respect of knowing that, when state officials make promises to Indian tribes, those officials have the authority to bind the State to such agreements. To do otherwise undermines the

credibility and honor of the State when engaging in these sensitive inter-sovereign relations. Unfortunately, I fear the agreements sent recently to you by the Governor will only have the effect of damaging the relationship between the State and these two tribes. Moreover, for all tribes in Oklahoma, approval of these agreements as gaming compacts will only cause greater confusion and uncertainty about how state-tribal relations should be appropriately conducted.

For these reasons, and for the reasons expressed in the attached Attorney General Opinion, I humbly urge you to disapprove for purposes of IGRA Governor Stitt's agreements with the Comanche Nation and the Otoe-Missouria tribe.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Hunter".

Mike Hunter

OKLAHOMA ATTORNEY GENERAL

Enclosure: Oklahoma Attorney General Opinion 2020-8.

cc: Assistant Secretary of the Interior Tara Sweeney  
Director Paula Hart, Office of Indian Gaming, Department of the Interior