

June 4, 2007

Governor Christine Gregoire
Office of the Governor
Legislative Building
P.O. Box 40002
Olympia, WA 98504-0002

Dear Governor Gregoire:

I am writing to request that your office examine and provide further clarification of the Washington State Liquor Control Board's recent decision to grant a liquor license to the Nooksack Indian Tribe's Northwood Crossing Casino. We've become aware of irregularities in enforcement and reporting of violations with regard to this applicant. The Board's decision and justification for license approval is inconsistent with facts that have recently come to light.

The Board has stated that its decision was based partly on the tribe's clean liquor law record at its existing Nooksack River Casino in Deming. However, liquor enforcement officers in the board's Bellingham office did report a specific violation by the applicant that appears to have been ignored by the agency and Board in the course of considering the Nooksack Indian Tribe's recent application. The license was approved despite strong opposition by the Bellingham enforcement officers.

In January 2007, Lt. Blair Smith, a state liquor enforcement officer in the Bellingham office, wrote an email stating that in February 2006, liquor enforcement officers conducted a random liquor compliance check at the Nooksack River Casino. In the course of the inspection the licensee's employee failed to check the identification of a youthful-looking 19-year-old investigative aide who was then supplied beer.

A written warning or an administrative violation notice would normally have been issued for such a violation, however Lt. Smith indicated that he and his officers were advised by headquarters to ignore the violation and take no formal corrective action. He also noted that a complaint by the tribe or the casino about the compliance check resulted in a directive from agency management to refrain from conducting additional liquor law enforcement at the Nooksack River Casino.

According to Lt. Smith, the Nooksack River Casino manager had repeatedly indicated he and the casino did not recognize the board's lawful authority to regulate liquor sales at the casino. As a result, Lt. Smith's recommendation, and the collective view of the Bellingham enforcement office, was that the Nooksack Indian Tribe's license be denied.

Page two

The recommendation is supported by Whatcom County Sheriff, Bill Elfo, Whatcom County Prosecuting Attorney, Dave McEachran, and Whatcom County Executive, Pete Kremen, who all believe the Liquor Control Board's selective enforcement is wrong and that the Board has no legal grounds for applying a different legal standard to liquor enforcement on Indian lands.

Sheriff Elfo and Executive Kremen have also complained that the Board granted the license for the new casino without holding the public hearing that county officials had requested. Board spokesman, Brian Smith, indicated that the Board normally would hold such a hearing, but that in this case, Board members had made the determination that Whatcom County had no legal jurisdiction to challenge the liquor license because the local authority was the tribe since the casino was on tribal trust land.

In a published news report, a Liquor Control Board spokesman stated that as a result of the Nooksack's having questioned the state's authority to regulate liquor sales on Indian land the Liquor Control Board has scaled back enforcement activity at tribal liquor sales outlets. As I understand it, the U.S. Supreme Court has upheld the right of states to regulate liquor sales on Indian lands.

I would appreciate a letter from your office responding to the following questions:

1. Is it your policy to enforce state liquor laws on tribal lands? If not, why not?
2. Is it your policy to enforce state liquor laws on tribal lands in the same manner and under the same criteria as applied to liquor enforcement on non-Indian lands? If not, why not?
3. Were local liquor enforcement officers advised, expressly or implicitly, to not enforce the violation at the Nooksack River Casino as noted above? If so, why?
4. Was a liquor license issued to the Nooksack Northwood Crossing Casino pursuant to a public hearing on the matter? If not, why not?
5. Was a memo from Lt. Blair Smith recommending that a liquor license be denied to the Nooksack Indian Tribe's Northwood Crossing Casino withheld from public records requests for all documents relating to the issuance of the license? If so, why?
6. Were liquor control board members who voted on issuing a liquor license to the Nooksack Indian Tribe's Northwood Crossing Casino shown Lt. Smith's memo before they voted? If not, why not?
7. Why did the Liquor Control Board note in its approval of the liquor license for the Nooksack Northwood Crossing Casino that there had been no violations at the current Nooksack River Casino when they had clear evidence of a violation?

Page three

I intend to formally request the House State and Tribal Government Committee to investigate whether or not the Liquor Control Board treats tribal entities differently when it comes to the rules that apply to the issuance and enforcement of liquor licenses and who within the executive branch administration made the decision to not enforce liquor laws equally at tribal casinos.

I look forward to your response.

Sincerely,

Representative Doug Ericksen
42nd Legislative District

cc: Rep. Sam Hunt, Chairman, House State and Tribal Government Committee
Rep. Bruce Chandler, Ranking Republican, House State and Tribal Government Committee