

NO ACTION

**HO-CHUNK NATION LEGISLATURE
DENIAL OF SUITABILITY WAIVER
FOR CASE NO. WV14-004**

RESOLUTION 04-08-14B

- WHEREAS,** on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and
- WHEREAS,** the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") grants the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions, and statutes; and
- WHEREAS,** Article V, Section 2(d) of the Constitution grants the Legislature the power to authorize expenditures by law and appropriate funds to the various Departments in an annual budget; and
- WHEREAS,** Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all governmental personnel; and
- WHEREAS,** Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulation conduct, and imposing penalties upon all persons within the jurisdiction of the Nation; and
- WHEREAS,** Article V, Section 2(t) of the Constitution grants the Legislature the power to enact laws governing law enforcement on lands within the jurisdiction of the Nation; and
- WHEREAS,** Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers; and
- WHEREAS,** the Legislature adopted the Amended and Restated Gaming Ordinance (5 HCC § 1) (hereinafter "Gaming Ordinance"), which was last amended by resolution 01-28-08D; and

WHEREAS, Section 17(c)(4) of the Gaming Ordinance grants the Legislature the power to waive by legislative resolution any requirements set forth in Section 17 (c)(2) of the Ordinance for any applicant when the applicant has demonstrated on the record before the Ho-Chunk Nation Gaming Commission ("Gaming Commission") evidence of sufficient rehabilitation and present fitness to hold a license; the recommendation to grant a waiver is submitted by the Gaming Commission to the Legislature for their consideration and final decision; and

WHEREAS, Section 14 of the *Gaming Ordinance* grants the Gaming Commission the power and responsibility to enforce the Ordinance, and to ensure compliance with this Ordinance, the *Indian Gaming Regulatory Act* (25 U.S.C. §2701 *et seq.*), the Compact, any licenses issued, and any orders of the Commission or Legislature; and

WHEREAS, on March 4, 2014, the Ho-Chunk Nation Gaming Commission convened a Preliminary Waiver Hearing, Case No. WV14-004, for Marcia S. Day in accordance with the Ho-Chunk Nation Gaming Ordinance, Section 17 c (4); and based on the testimony and exhibits offered in Case No. WV14-004, the Commission found that Ms. Day demonstrated evidence of sufficient rehabilitation and present fitness to hold a license; a recommendation to grant a waiver was submitted by the Commission to the Legislature for their consideration and final decision; and

WHEREAS, on March 18, 2014, the Legislature, having considered the record and the Gaming Commission's recommendation in Preliminary Waiver Hearing Case No. WV14-004, decided not to concur in the Commission's recommendation that Marcia S. Day be given a waiver to hold a gaming license; and

WHEREAS, since the Legislature did not concur in the Commission's recommendation, the Legislature now finds it appropriate to affirmatively consider a resolution to deny the waiver, based on the Legislature's discretion under the Gaming Ordinance.

NOW THEREFORE BE IT RESOLVED that the Ho-Chunk Nation Legislature, pursuant to its Constitutional authority, and pursuant to the standards set forth in the *Amended and Restated Gaming Ordinance*, hereby denies a suitability waiver to Marcia S. Day.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **13** members of whom __ constituting a quorum were present at a meeting duly called and convened and held that on the **8th day of April, 2014**, that the foregoing resolution was adopted at said meeting by an affirmative vote of __ members, __ opposed, and __ abstaining, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

Kathleen Lone Tree-Whiterabbit, Tribal Secretary

Date