



Navajo Nation Gaming Enterprise

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December 12, 2011

Tracie L. Stevens, Chairwoman
Steffani A. Cochran, Vice-Chairwoman
Daniel Little, Commissioner
National Indian Gaming Commission
1441 L Street, NW, Suite 9100
Washington, D.C. 20005

Re: Comments on Proposed Rules on 25 CFR Part 514, 25 CFR Part 523 and 25 CFR Part 571 and Notice of No Action

Dear Chairwoman Stevens, Vice-Chairwoman Cochran, and Commissioner Little:

On behalf of the Navajo Nation Gaming Enterprise (“NNGE”), we offer the following comments in response to the National Indian Gaming Commission’s (“NIGC”) Proposed Rules on 25 CFR Part 514 (76 FR 62684 (Oct 11, 2011)), 25 CFR Part 523 (76 FR 63236 (Oct. 11, 2011)), and 25 CFR Part 571 (76 FR 63237 (Oct. 11, 2011)). We are also providing comments on the NIGC’s Notice of No Action (76 FR 63325 (Oct. 12, 2011)).

1. Part 514- Fees

The NNGE does not object to the NIGC’s proposed change to Part 514 to change the fee calculations from a calendar year to a fiscal year basis. The Nation’s gaming operations’ fiscal year is the calendar year so this proposed change will not affect us.

The NNGE also does not object to the NIGC’s proposal to change the payment schedule to a quarterly payment system. Additionally, the NNGE does not object to the substitution of “entry fees (including table or card fees)” for “admission fees,” the current term used in Part 514. We understand this revision is proposed to provide clarity in the regulations.

The NNGE supports the NIGC’s proposal to establish a tiered late payment system as set forth in Parts 514.9-514.14. The NNGE understands that such proposal is to avoid immediately moving to a notice of violation (NOV) situation. Instead, the proposal would create a fine system for late fee payments from tribes and provide for the use of an NOV in situations when

the fee is ninety-one (91) or more days past due. The NIGC's proposal also requires the Chair to take into consideration any information a tribe submits concerning mitigating circumstances surrounding the late payment when determining the amount of the fine.

The Navajo Nation's February 10, 2011, comments on possible revisions to Part 514 called for an interim remedies process prior to the issuance of an NOV and to save the NOV process as a last resort. The NNGE supports the proposed tiered late payment system because it allows for interim remedies prior to the issuance of an NOV, allows for discretion of the Chair in the face of mitigating circumstances, and saves the NOV process for situations involving a failure to pay annual fees (more than 91 days past due) rather than simply for a late fee payment. However, as the Nation did in its comments, the NNGE recommends that the NIGC engage in consultation with the tribe before initiating the NOV process. Such consultation would shed light on extenuating circumstances and allow for resolution between the NIGC and the tribe before commencing the burdensome NOV process.

Finally, the NNGE does not object to the NIGC's proposal in Parts 514.15-17 concerning the NIGC's adoption and collection of fingerprint processing fees.

2. Part 523 – Review and Approval of Existing Ordinances or Resolutions

Part 523 concerns the approval of existing ordinances and resolutions that were enacted by a tribe prior to February 22, 1993, but not yet submitted to the NIGC Chair for approval. Part 523 does not affect the NNGE. The NNGE supports the NIGC's proposal to eliminate this Part if the NIGC has determined it to be obsolete.

3. Part 571 –Monitoring and Investigations - Issuance of Investigation Completion Letter

The NNGE supports the NIGC's proposal to include a new Part 514.4 which permits an authorized representative of the NIGC to issue an investigation completion letter after the NIGC has concluded its investigation into a particular matter and has determined that it will not recommend enforcement proceedings against the respondent at that time. We think it important for many reasons for there to be a record that an investigation has been completed.

4. Notice of No Action – Collateral Agreements and Definition of Net Revenues Management Fee

The NNGE supports the NIGC's Notice of No Action which sets forth the NIGC's decision not to promulgate a regulation requiring NIGC approval of collateral agreements. IGRA requires NIGC approval of management contracts (25 U.S.C. 2705(a)(4)) but not collateral agreements unless those agreements also provide for management. Requiring approval for

collateral agreements which do not meet the definition of management contract would be outside the scope of the NIGC's authority.

The NNGE also supports the NIGC's Notice of No Action which sets forth the NIGC's decision not to amend the definition of net revenues found at 25 C.F.R. Part 502.16. We acknowledge the NIGC's effort to be consistent with the Indian Gaming Regulatory Act.

We appreciate the opportunity to comment on the Proposed Rules. We look forward to continuing to work with the NIGC as its regulatory review moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond C. Etcitty". The signature is stylized and cursive.

Raymond C. Etcitty
General Counsel/Acting COO