



**San Manuel Band of Mission Indians
Tribal Gaming Commission
OFFICE OF THE COMMISSION**

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August 3, 2011

Ms. Tracie Stevens, Chairwoman
National Indian Gaming Commission
1441 L Street, Suite 9100
Washington, D.C. 20005

Dear Madam Chairwoman,

The San Manuel Gaming Commission would like to respectfully submit the following written comments on discussion drafts of NIGC regulations Parts 556 and 558 dealing with background investigations and licensing of primary management officials and key employees.

First, Section 556.1 describes the scope of the part. It states in essence that unless a Tribe's compact designates someone other than the Tribe as the backgrounding authority, then the procedures in this part apply. This raises the question as to whether a Class III compacted Tribe, that is also engaged in Class II gaming, must use the State only for Class III employees and must use NIGC regulations only for Class II employees, or, if a Tribe could elect to use the State to background both classes of employees?

Section 556.4 (c) seems to be a new provision requiring the Tribe to keep confidential the identity of each person interviewed in the course of an investigation. We question the need or appropriateness of this provision. These identities should be kept confidential from who? If information obtained in an interview contributes to the denial, suspension or revocation of a license, we would think that State and/or NIGC officials would want to know the identity of who provided the information. Additionally, such a provision could seriously infringe upon an applicant's "due process" rights. An applicant being denied a license should have the opportunity to confront, question, or rebut their "accuser" at a hearing. We would strongly urge the NIGC to leave investigative confidentiality considerations to the Tribe's discretion.

Section 558.1 defines the scope of Part 558 dealing with the issuance of licenses. The scope says that "unless a Tribal-State Compact assigns responsibility to an entity other than the Tribe, the licensing authority for Class II or Class III gaming is a tribal authority. While it seems unlikely that a Tribe would give licensing authority over Class II employees to the State (or other entity), if that were the case, is the rest of this part moot? Are notifications required? Can the NIGC object? It is probably unlikely

there could be hearings on a State licensing decision. If the State has licensing authority over Class III employees only, then this part is only applicable to Class II employees. Perhaps more clarification on this would be helpful.

Section 558.2 (c) requires notification to the NIGC if a license is not issued to an applicant, and submission of the eligibility determination. Apparently this is a new requirement. We are only aware of an IGRA requirement to notify the NIGC of when a license is issued. While we see the value to all Tribal Regulatory Agencies to have license denial information available thru the NIGC, we would object to a mandate which poses the possibility of a Tribe to be in non compliance with NIGC regulations if they failed to make notifications of all license denials. We would support the concept of Sections 558.2 (c) (1) and (2) being elective or worded as "may" provisions rather than "shall". Having said all that, if this provision were to be adopted, some consideration must be given to effective date, clarifying that all previous denials are "grandfathered". Finally, we would also point out a "typo" in 558.2 (c) (2) in that "556.65 (b) (1)" should read "556.6 (b) (1)".

We believe that Sections 558.3 (c) and (d) are unnecessary, redundant, and duplicative of the process described in 558.4 and should be eliminated. The necessary clarity can be achieved by the following suggestions.

In Section 558.4 (a) insert the words "within thirty (30) days" after the word "if", and add the words "and object to the issuance of the license" after the last word "information".

In Section 558.4 (b) insert the words "and objection" after the word "notification".

Section 558.5 (a) might read better if after the word "Commission", the word "at" is used rather than "to".

Once again, thank you for the opportunity to submit comments. We hope you will find this submission helpful and give deliberate consideration to our suggestions.

Sincerely,



Norman H. DesRosiers
Gaming Commissioner

cc: Ms. Stephanie Cochran, Vice Chair
Mr. Daniel Little, Commissioner