



PICAYUNE RANCHERIA OF THE
CHUKCHANSI INDIANS
TRIBAL GAMING COMMISSION

Phone: (559) 683-6505 • Fax: (559) 642-4683
46575 Road 417 #B • Coarsegold, CA 93614

Dear Tribal/State Regulators:

On September 10th, 1999, California Governor, Gray Davis and Roger Davis, Chairperson of the Chukchansi Indians signed the Tribal State Compact between the state of California and the Chukchansi Indians. Fifty-seven federally recognized tribes in the State of California (the "State") also entered into a government-to-government relationship with the State under the terms of the 1999 Tribal State Compact (the "1999 Compact"). Since that time, various Tribes have elected to renegotiate their compacts allowing more gaming devices, additional revenue disbursements for those devices, and State regulatory oversight beyond that set forth in the 1999 Compact, as those sovereign tribes and the State were entitled to do. These tribes negotiated terms with the State on a government to government basis. Each received its negotiated for benefit through this process.

The 1999 Compact established a government to government relationship between the Chukchansi Indians and the State. According to the preamble the system of regulation of Indian gaming fashioned by Congress in IGRA rests on an allocation of regulatory jurisdiction among three sovereigns: the federal government, the state in which a tribe has land, and the tribe itself. Nowhere in the preamble does it state subdivisions of these sovereigns have the authority to unilaterally re-negotiate the terms set forth in the agreed upon compact. Any changes to the terms set forth in the 1999 Compact must be renegotiated between the two sovereigns, and new or additional regulatory requirements must be agreed to through government to government negotiations. Specifically Section 12.0 of

the 1999 Compact establishes specific procedures and authority for any amendments and renegotiations of the terms of the compact.

On or about March 26, 2007, the California Gambling Control Commission (the "CGCC") notified the California tribes with tribal-state compacts that they intended to submit to the State Association a uniform tribal gaming regulation, CGCC -8, establishing further regulatory oversight, interpretation and changes to certain sections of the Compact. According to the Draft Statement of Need issued by the CGCC:

A basic premise of the Tribal-State Indian Gaming Compact ("Compact") was that pursuant to the Indian Gaming Regulatory Act, regulatory jurisdiction would rest with three sovereigns, the federal government, the state, and the Tribe. The decision of the District of Columbia Circuit Court of Appeals in *Colorado Indian Tribes v. NIGC*, changed that basic premise and altered the regulatory landscape for tribal gaming by concluding that the NIGC was not authorized to promulgate regulations establishing minimum internal control standards ("MICS") for Class III gaming, or to enforce compliance with those regulations. The purpose of CGCC-8 is to preserve the benefits of the MICS system that has been in place since 1999.

On April 11, 2007, in good faith, the California Tribal Regulators Network held a meeting where representatives from the CGCC were also present, including Mr. Cy Rickards, then Chief Counsel for the CGCC, Mr. Herb Boiz, commission attorney for many years and author of the draft regulation CGCC-008, as well as Ms. Heather Hoganson, to begin a dialogue on CGCC -8. In Mr. Rickards introductory remarks he informed the group that, "As a result of the *Colorado River Indian Tribes v. NIGC*, 468 F.3d 134 (2006) (the "CRIT Decision") decision a vacuum has been created regarding regulatory oversight responsibilities. This has created pressure on the commission to develop an emergency MICS Regulation."

Since this meeting, further discussion regarding the proposed regulations, CGCC-8, continued, and the topic of the Colorado River Indian Tribes Court decision impact became such a concern that the Assembly Governmental Organization Committee held an information hearing on May 14, 2007. Again, according to the Compact preamble the system of regulation of Indian gaming, fashioned by Congress in IGRA rests on an allocation of regulatory jurisdiction among the three sovereigns involved: the federal government, the state in which a tribe has land, and the tribe itself. Testimony for this informational hearing was provided by: Mr. Phil Hogen, Chairman of the NIGC, Mr. Dean Shelton, Chairman, CGCC, Mr. Paul Bullis, Director, Arizona Department of Gaming, and Ms. Sylvia Cates, Deputy Legal Affairs Secretary, Office of the Governor. Although IGRA provides that tribes are to have the exclusive right to regulate gaming activity on Indian lands, not one member or representative from any tribe was allowed to provide testimony.

On September 10, 2007 the Rose Institute of State and Local Government at Claremont McKenna College provided a study of "Gaming Regulatory Agency Expenditures of Tribes in California" for the Tribal Alliance of Sovereign Indian Nations. The 64 tribes that are covered in the report projected Tribal Gaming Commission budgets totaling \$90,282,837. The California Tribal Gaming Regulatory Agencies surveyed employ approximately 1,833 employees. The State has yet to identify any actual need or concern that would require adoption of proposed CGCC-8.

On July 11, 2007, prior to its adoption by the CGCC, the State Association, in accordance with its adopted Protocol for Submission of Proposed State Regulatory Standards to the Association, created an Association Regulatory Standards Taskforce (the "Taskforce") to review CGCC-8. The first meeting was held on August 8, 2007. The CGCC then submitted a revised proposed regulation to the Taskforce on September 7, 2007. Subsequent meetings were held on September 11, 2007, November 7, 2007, January 9, 2008, and February 13, 2008.

These meetings were attended by a majority of the Tribal Regulators and representatives from the State. Throughout all of these meetings, most, if not all, of the Tribes have adamantly concluded that the CRIT Decision did not change anything within the regulatory jurisdiction because most of the Tribes had adopted the MICS in their tribal gaming ordinances, which are approved by the NIGC. Furthermore, on January 11, 2008 NIGC approved amendments to five tribal gaming ordinances, Picayune Rancheria included, that require compliance with the NIGC MICS. This was achieved through a government-to-government relationship which fully addressed the exact concern that led to the drafting of CGCC -8.

The last Taskforce meeting, held on February 19, 2008 produced a Final Report, which was provided to every member of the Taskforce, including, the State representatives. This report was delivered to the State Association on May 7, 2008 per the Protocol. The Taskforce recommendation to the State Association found that the draft CGCC-8 is unnecessary, unduly burdensome, and unfairly discriminatory.

Since February 13, 2008, the CGCC has released two new versions of CGCC-8. The first on March 11, 2008, and the second after a "closed" session meeting of the CGCC held on March 13, 2008. The current proposed version does not provide a legitimate basis for its need. The current version also does not address the CRIT Decision, which was the main basis of need stated by the CGCC throughout this process. The new version specifically states,

Nothing in this regulation shall modify or affect the rights and obligations of the SGA under the Compact, including but not limited to, the SGA entities' ability to share documents provided pursuant to this regulation, subject to the Compact's confidentiality provisions.

The Regulation itself is saturated with Compact citations implicating an interpretation that the CGCC already has these authorities. However, there is no

discussion of why, almost ten years after the 1999 Compacts went into effect, the State now has to exercise some new authority that it has not asserted in the past. There is also no discussion of why four tribes that recently renegotiated their compacts specifically agreed through government to government negotiations to allow the State the very oversight set forth in CGCC-8, while the tribes that have not chosen to renegotiate their 1999 Compacts are being told they must comply with this regulation, yet get nothing in exchange for this new assertion of authority by the State.

The regulation as currently drafted exceeds the authority granted to the State in the Compact by proposing to allow the CGCC authority that is specifically reserved to the Tribe through the Indian Gaming Regulatory Act ("IGRA"), and the Compact. IGRA specifically provides that "Indian tribes have the *exclusive right* to regulate gaming activity on Indian lands". See 25 USC § 2101. (emphasis added). Specific provisions of IGRA require Tribes to enter into compacts with the state in which the Tribe resides for class III gaming. See 25 USC § 2710 (d). The CRIT Decision held that the minimum internal control standards (MICS) are governed by the tribal state compacts for class III gaming, and that federal MICS regulations promulgated by the National Indian Gaming Commission ("NIGC") apply only to class II gaming. There is nothing in the CRIT Decision that authorizes a state to unilaterally assume regulatory responsibility of tribal gaming based on a "perceived" change in the regulatory landscape that resulted from a court decision interpreting existing law. Both IGRA and the 1999 Compact vest in the Tribe exclusive rights to regulate gaming on Indian lands with certain safeguards in place. These safeguards for class III gaming include a tribal gaming ordinance approved by the NIGC, a tribal state compact, and enforcement provisions at the federal level through NIGC adopted federal regulations. See 25 USC § 2710(d)(2)(A); Tribal Gaming Ordinance of the Piyayune Rancheria of Chukchansi Indians; Tribal-State Compact Between the State of California and the Chukchansi Indians dated October 2, 1999; and 25 C.F.R. Part 573.

These latest versions of CGCC-8 were put forth without any consultation or consideration by the tribes that will supposedly have to comply with the regulations, despite the language set forth in the Compact requiring consultation and consideration by the Tribal State Association. The Taskforce has wasted nearly a year analyzing and providing comments to CGCC on the proposed regulations. Traveling to many meetings in various locations state-wide, utilizing attorneys and auditors to provide recommended language for the proposed draft regulations issued in March, 2007 and September, 2007. The proposed regulation is unduly burdensome and has cost California tribes thousands of dollars. The result is that the CGCC has blatantly ignored the legitimate issues and concerns raised by California tribes. This is particularly concerning when the State has openly acknowledged that the regulation has not been proposed to correct an actual problem or existing shortcoming in tribal regulation, but to address a perceived problem that the State has created through misrepresentations in the media.

The proposed CGCC-8 discriminates against tribes, because California Card Rooms do not have MICS in place concerning key areas of gaming. Tribal gaming establishments, however, adopted internal control standards from the beginning. NIGC-MICS and Tribal Internal Control Standards are far more stringent than those set forth in proposed CGCC-8. With all due respect, the CGCC now wants to regulate the tribal regulators, but has not even treated or held the card rooms to the same standards. This demonstrates discriminatory behavior that forces tribes to be held to a higher standard than other gaming establishments that the State does in fact have authority to fully regulate.

The proposed CGCC-8 attempts to grant the CGCC authority not authorized in the Compact, and would undercut the Tribe's exclusive regulatory powers over Indian gaming on Indian lands as agreed to in the Compact. Despite the perceived regulatory gap raised by the CGCC, there is ample regulation in place at the tribal, federal, and state levels to ensure compliance with MICS. The existing regulations include, the IGRA, enforcement powers of NIGC set forth in 25

C.F.R. Parts 522 and 573, adoption of MICS in Tribal Gaming Ordinances and tribal regulations. The proposed regulation circumvents the government to government negotiation process mandated in IGRA and would allow the state to unilaterally regulate tribes in an area that was not agreed to in the compact negotiations.

There is regulation in place that protects class III Indian gaming at the tribal, federal and state level. The State has not effectively regulated the areas it has current authority over, yet it attempts to take on responsibility outside that authorized by the Compact without a government-to-government negotiation. Also, no enforcement mechanism exists to prevent abuse of this regulatory power by the State Gaming Agency as long as the outstanding procedural objections by the State continue to negate the dispute resolution process set forth in Section 9.0 of the Compact. At this time there does not appear to be a need for CGCC-8, nor is there authority within the Tribal State Compact for such regulation¹. If a CRIT fix is needed, it appears that tribes should pursue a federal option.

Therefore, the Picayune Rancheria of the Chukchansi Indians opposes adoption of CGCC-8, as the provisions of this regulation, regardless of the version, violate the 1999 Compact between the Chukchansi Indians and the State. Any provisions, interpretations, establishment of specific procedures and granting of authority belong in compact negotiations between the State of California and the Tribe, as pursued in 2004 and 2007 with other 1999 Compact tribes.

Sincerely,



Thomas Walker, Chairman

Picayune Rancheria of the Chukchansi Indians

Tribal Gaming Commission

State Association Delegate

Exhibit A.10

Via Hand Delivery at September 4, 2008 Tribal-State Association Meeting

***Jackson Rancheria Tribal Gaming Agency
Position Statement On Proposed Regulation CGCC-8***

The Jackson Rancheria Tribal Gaming Agency ("TGA") opposes the proposed state regulation CGCC-8. There is no authority under the Tribal-State Gaming Compact for the promulgation of a state gaming agency regulation like CGCC-8, which attempts to provide for California Gambling Control Commission ("CGCC") compliance reviews/audits of federal minimum internal control standards (MICS), some sort of review of financials of tribal gaming operations (of unclear scope or consistency), and processes outside the negotiated Compact, including Sections 6, 7 and 8. CGCC-8 is an unauthorized extension of the state's authority under our Compact and would require instead a negotiated change in terms through a compact amendment, as was done recently with new compacts and memorandums of agreements, which specifically include these types of regulatory provisions. Additionally, we join in the Tribal-State Association Regulatory Standards TaskForce Final Report of February 13, 2008.

We are dedicated to ensuring the integrity of Indian gaming and have worked cooperatively with the State Gaming Agency to implement the regulatory provisions of the Compact over the many years since our Compact was negotiated by the Governor, ratified by the California Legislature and approved by the United States Secretary of the Interior. However, we are very disappointed with the CGCC's approach taken with the proposed regulation CGCC-8 and cannot support it because it violates our Compact and is unnecessary, duplicative, and unduly burdensome and discriminatory.

Sincerely,



Kelly Steinhoff, Executive Director
Jackson Rancheria Tribal Gaming Agency

Cc: Dean Shelton, Chairman CGCC

Exhibit A.11

Via Hand Delivery at September 4, 2008 Tribal-State Association Meeting

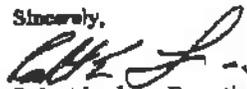
***Cher-Ae Heights Indian Community of the Trinidad Rancheria
Tribal Gaming Commission
Position Statement On Proposed Regulation CGCC-8***

The Cher-Ae Heights Indian Community of the Trinidad Rancheria Tribal Gaming Commission opposes the proposed state regulation CGCC-8. There is no authority under the Tribal-State Gaming Compacts for the promulgation of a state gaming agency regulation like CGCC-8, which attempts to provide for California Gambling Control Commission ("CGCC") compliance reviews/audits of federal minimum internal control standards (MICS), some sort of review of financials of tribal gaming operations (of unclear scope or consistency), and processes outside the negotiated Compacts, including Sections 6, 7 and 8. CGCC-8 is an unauthorized extension of the state's authority under our Compact and would require instead a negotiated change in terms through a compact amendment, as was done recently with new compacts and memorandum of agreements, which specifically include these types of regulatory provisions.

Additionally, the proposed regulation CGCC-8 is unnecessary, duplicative, and unduly burdensome, and we join in the Tribal-State Association Regulatory Standards Task Force Final Report of February 13, 2008.

We have worked cooperatively with the State Gaming Agency to implement the regulatory provisions of the Compact which ensure the integrity of Indian gaming over the past many years. We are very disappointed with the CGCC's approach taken with the proposed CGCC-8 and cannot support it because it violates our Compact and is unnecessary, duplicative, and unduly burdensome and discriminatory.

Sincerely,



Robert Latham, Executive Director

Cher-Ae Heights Indian Community of the Trinidad Rancheria Tribal Gaming Commission

Cc: Doug Shelton, Chairman CGCC

Exhibit A.12



TRIBAL GAMING AGENCY

Via Hand Delivery at September 4, 2008 Tribal-State Association Meeting

United Auburn Tribal Gaming Agency Position Statement On Proposed Reg CGCC-8

The United Auburn Indian Community Tribal Gaming Agency ("UAIC TGA") opposes the proposed state regulation CGCC-8. As previously expressed, we believe that there is no authority under the Tribal-State Gaming Compacts for the promulgation of a state gaming agency regulation like CGCC-8, which attempts to provide for California Gambling Control Commission ("CGCC") compliance reviews/audits of federal minimum internal control standards (MICS), some sort of review of financials of tribal gaming operations (of unclear scope or consistency), and processes outside the negotiated Compacts, including Sections 6, 7 and 8. CGCC-8 is an unauthorized extension of the state's authority under our Compact and would require instead a negotiated change in terms through a compact amendment, as was done recently with new compacts and memorandum of agreements, which specifically include these types of regulatory provisions.

The CGCC has identified its objectives as being to confirm tribal gaming integrity, protect citizens, and secure the state's interest in revenue share from Compacts in its April 6, 2007, Statement of Need for this potential regulation. We believe that these objectives are being met already and that the potential regulation CGCC-8 is unnecessary, duplicative, and unduly burdensome. In addition to the factors set out in the Tribal-State Association Regulatory Standards Task Force Final Report of February 13, 2008, in which we join, we want to specify here that the UAIC TGA provides on-site tribal gaming regulation at Thunder Valley Casino, which includes MICS compliance monitoring and enforcement, with oversight by the National Indian Gaming Commission ("NIGC"). The NIGC oversight includes enforceable MICS compliance monitoring, and the NIGC has conducted a MICS audit at Thunder Valley Casino after the CRIT appellate decision, *Colorado River Indian Tribes v. NIGC*, 466 F.3d 134 (D.C. Cir. 2006). Under our Compact, patrons have the right to independently arbitrate disputes over the play or operation of a game if dissatisfied with the resolution of such dispute by management and the TGA. Gaming devices are tested to ensure fairness to patrons by the TGA, independent auditors, and the CGCC, and the results of the independent audits completed by certified public accountants are provided to the CGCC. Our Compact provides for flat fee payments to the State rather than payments by percentages based upon net win, so the State has no interest in securing its revenue share at United Auburn's Thunder Valley Casino through the compliance reviews proposed in CGCC-8.

Additionally, it is difficult to understand how or why the CGCC has declined to include in its proposed CGCC-8 an exemption for tribal gaming operations over which the NIGC exercises jurisdiction to monitor and enforce MICS. As we have repeatedly stated, such an exemption would accomplish the core purpose the CGCC identified in its Statement of Need - oversight of MICS compliance.

Our practice over the many years has been to work with the State Gaming Agency to cooperatively implement the regulatory provisions of the Compact which ensure the integrity of Indian gaming. We are very disappointed with the CGCC's approach taken with the proposed CGCC-8 and cannot support it because it violates our Compact and is unnecessary, duplicative, and unduly burdensome. *4. violation of compact*

Sincerely,

Ronald M. Jaeger, Chairman
United Auburn Indian Community Tribal Gaming Agency

cc: Dean G. Helm, Chairman, CGCC



MIWOK
MAIDU United Auburn Indian Community
of the Auburn Rancheria

JESSICA TAVARES
CHAIRPERSON

KIM DUBACH
VICE CHAIR

DAVID KEYSER
SECRETARY

DOLLY SUEHEAD
TREASURER

GENE WHITEHOUSE
COUNCIL MEMBER

November 29, 2007

Philip Hogen, Chairperson
National Indian Gaming Commission
1441 L Street NW, Suite 9100
Washington, DC 20005

Re: Amendment to Tribal Gaming Ordinance

Dear Chairman Hogen:

On behalf of the United Auburn Indian Community, enclosed for the review and approval of the National Indian Gaming Commission ("NIGC") under the Indian Gaming Regulatory Act, 25 U.S.C. Section 2701 *et seq*, is an amended tribal gaming ordinance along with the original Tribal Council resolution adopting the amended ordinance and authorizing its submission for review and approval.

As communicated to the NIGC Regional Director for California last year and stated in our previous correspondence to you, United Auburn Indian Community consents to the jurisdiction of the NIGC with respect to the monitoring and enforcement of minimum internal control standards adopted by the Tribe that meet or exceed the federal standards at 25 CFR Part 542 ("MICS"). A full MICS audit was conducted by the NIGC at our gaming operation Thunder Valley Casino several months ago.

We believe federal regulatory standards promote and support strong regulatory practices at Indian casinos and strengthen the public's confidence in the integrity of Indian gaming. The enclosed amendments to our gaming ordinance at Section VI affirm once again the Tribe's adoption of minimum internal control standards for the gaming operation that provide a level of control that equal or exceed those federal standards set forth in 25 CFR Part 542 and the monitoring and enforcement of compliance with such standards by the Tribal Gaming Agency as well as by the National Indian Gaming Commission.

A redline of the original ordinance approved in 2000 is also enclosed for your convenience. If you have any questions or comments regarding these amendments, please contact our tribal attorney Jane Zerbi at (916) 244-8550.

Sincerely,

Jessica Tavares, Tribal Chairperson

13007-4



Jessica Tavares
Chairperson
United Auburn Indian Community
575 Menlo Dr., Suite 2
Rocklin, CA 95765

JAN 11 2008

Re: Amended gaming ordinance, Resolution No. 11-28-07-01

Dear Chairperson Tavares:

This is in response to your November 29, 2007 submission seeking review and approval of the amendments to the United Auburn Indian Community's gaming ordinance enacted by Resolution No. 11-28-07-01. The amended ordinance makes NIGC's minimum internal control standards (MICS) applicable to the Community's Thunder Valley Casino and makes other, miscellaneous changes. It is consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) and this agency's regulations and is therefore approved. The NIGC looks forward to once again providing assistance to the Community in its regulation of Class III gaming.

Thank you for your submission. If you have any questions or require assistance, please contact Michael Gross, Associate General Counsel, General Law, at 202-632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip N. Hogen".

Philip N. Hogen
Chairman

cc: Jane Zerbi, Esq.
Penny Coleman, Acting General Counsel
Michael Gross, Associate General Counsel, General Law



February, 28, 2008

Via U.S. Mail and Facsimile

John A. James
Chairman
Cabazon Band of Mission Indians
84-245 Indio Springs Drive
Indio, CA 92203
Fax: 760-347-7880

RE: Amendment to Cabazon Band of Mission Indians Gaming Ordinance

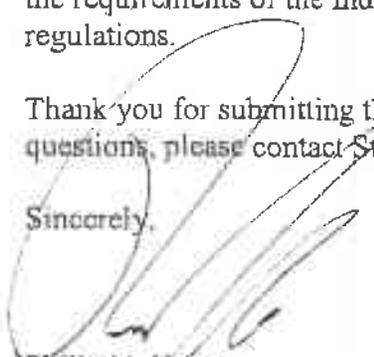
Dear Chairman James:

On February 13, 2008, you requested that the Office of General Counsel for the National Indian Gaming Commission (NIGC) review and approve the Tribe's amendment to the Cabazon Band of Mission Indians' Gaming Ordinance (gaming ordinance). The Tribe amended the gaming ordinance on February 7, 2008, via Resolution No. 02-07-08-1. In this amendment, the Tribe clarified its compliance with NIGC Minimum Internal Control Standards (MICS) for Class II and III gaming.

This letter constitutes approval of the amendment because nothing therein conflicts with the requirements of the Indian Gaming Regulatory Act (IGRA) and the Commission's regulations.

Thank you for submitting the amendment for review and approval. If you have any questions, please contact Staff Attorney Rebecca Chapman at (202) 632-7003.

Sincerely,



Philip N. Hogen
Chairman

**NATIONAL
INDIAN
GAMING
COMMISSION**

Exhibit G.4

FEB 24 2000

Honorable Jessica Tavares
Chairperson, United Auburn Indian Community
661 Newcastle Road, Suite 1
Newcastle, California 95658

Dear Chairperson Tavares:

This letter responds to your request to review and approve the tribal gaming ordinance, Ordinance No. 99-2, adopted on November 8, 1999, by the United Auburn Indian Community (Community). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

The gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA. It is our understanding, based on conversations with the Community's Legal Counsel, Howard Dickstein that the Community has made application to the Department of the Interior to have land taken into trust. Please be advised that no gaming may take place unless and until the Community has Indian lands upon which it may legally game.

In addition, the Secretary of the Interior has not approved a tribal-state compact between the Community and the State of California. Consequently, the Community may not legally engage in Class III gaming at this time. The Community may engage in Class III gaming only upon approval of a tribal-state compact. If and when a tribal-state compact is approved, please provide a copy to the NIGC.

You indicated that the Tribe plans to adopt the Minimum Internal Control Standards (MICS) once the tribal-state compact is approved. We note that the Tribe and/or Tribal Gaming Agency must promulgate tribal MICS that are at least stringent as the NIGC MICS found at 25 C.F.R. Part 542. In addition, the gaming operation must establish and implement an internal control system that is consistent with the tribal MICS prior to commencement of operation.

Thank you for submitting the ordinance of the United Auburn Indian Community for review and approval. The NIGC staff and I look forward to working with you and the Community in implementing the IGRA.

Sincerely yours,

Montie R. Deer by BwB

Montie R. Deer
Chairman