

**California Gambling Control Commission**

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**MINUTES OF JULY 20, 2010  
COMMISSION MEETING**

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**OPEN SESSION**

1. Call to Order and Pledge of Allegiance.

Chairman Dean Shelton called the meeting to order at 10:01 a.m., and asked everyone to stand for the Pledge of Allegiance.

2. Roll Call of Commissioners.

Roll Call of Commissioners was taken, with Chairman Dean Shelton and Commissioners James Shelby and Stephanie Shimazu present.

3. Consideration of Final Adoption of Uniform Tribal Gaming Regulation CGCC-8 - (Tribal-State Gaming Compact Section 8.4.1)

Jason Pope, Staff Counsel indicated that CGCC-8 is a regulation put forth by the California Gambling Control Commission intended to provide protocols for interaction over state gaming agency compact inspections related to internal control standards. Mr. Pope further indicated that over the course of the three year rule making process the regulation has undergone many changes through extensive negotiations and deliberations. CGCC-8 was recently voted on and approved in an amended form by the Commission on April 29, 2010. CGCC-8 was then sent to the Tribal State Association (Association) for consideration at the June 2, 2010 Association meeting where it was approved by a majority of all Association members. Mr. Pope stated that the Commission has received one tribal comment from the Big Sandy Rancheria. This comment largely reiterated previous concerns about CGCC-8 including concerns that it is a compact amendment. Mr. Pope indicated that staff recommended the Commission adopt the version of CGCC-8 which was approved by the Commission on April 29, 2010 and the Association on June 2, 2010 as a final regulation effective today July 20, 2010.

Commissioner Shelby requested clarification on whether a tribe can, in effect, opt out of this regulation and follow the NIGC compliance standards and what is the process.

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Deputy Director Richard Ross indicated that the NIGC alternative compliance section is not an opt-out of the regulation. It establishes that the auditing activities of the NIGC will be a primary review consideration of the Commission staff to use as facts relative to the particular tribe complying with internal control standards as established by the tribe and then meeting the NIGC criteria of compliance. In addition, the staff will have an opportunity to raise questions with the tribe should any of those NIGC findings suggest that there is some issue of non-compliance. Mr. Ross further indicated that the Commission staff will still be looking at every tribe. The NIGC option, however, provides a reality check that, in fact, if NIGC has done a review and has findings; those would be primary information the Commission would be able to review. There is certain efficiency for Commission and there is certain efficiency for tribes, to avoid redundancy.

In response to the second part of the question, Mr. Ross indicated that a tribe, through its sovereign role, can establish its own ordinances and those ordinances that impact upon gaming and allowing NIGC Class III oversight, do have to be approved by the NIGC Commissioner. Their sovereign option to be able to use this allowance of NIGC coming in and looking at Class III, is within their discretion. Mr. Ross further indicated it is, in a sense, giving up a right to the NIGC because the federal courts have ruled that the NIGC has no authority to establish regulation and oversight regarding Class III gaming. In this regard the sovereign role of a tribe to select that option is with the tribe. In this regulation, it acknowledges the occurrence of that and uses the NIGC engagement as a by-product which the Commission can then rely upon.

Commissioner Shelby questioned if the regulation improved efficiency in the dispute resolution process.

Deputy Director Richard Ross responded that the regulation clarifies the parameters. It does establish guidance for both parties within which they can operate. The compacts recognize the "mutual respect for sovereign Tribal entities" and that's the by-word in the relationship. Mr. Ross stated the Commission presently engages with 57 sovereign Tribal governmental entities that are operating gaming facilities and the tribes have no obligation to operate identically. Mr. Ross further indicated that regulation of this nature provides a certain amount of understanding, uniformity and consistency in approach, so that the Commission will have a better understanding when staff reports. There will not be 57 customized reports, but a review based upon established standards with certain parameters that will apply to all tribes. Mr. Ross added that the timelines are guidelines, the language allows for reasonable extension upon concurrence of the parties and the intent is that most issues can get resolved in discussion at the information reviewing level e.g. clarifying interpretation differences and misunderstandings, therefore, preventing the need for minor issues going to the Commission or Tribal government.

Commissioner Shimazu expressed thanks for all the effort, time and resources that everyone has put into the adoption of this regulation. Commissioner Shimazu expressed confidence that the regulation provides a process that is fair and clear enabling the parties to point to something if a dispute does arise. Commissioner Shimazu further

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stated that her hope is that once it is implemented everyone can continue to build upon the positive working relationship that has been developed.

Commissioner Shimazu moved to approve as a final regulation, effective July 20, 2010, under compact section 8.4.1 the version of CGCC-8 attached to the agenda which was previously approved by this Commission as a proposed regulation on April 29, 2010 and forwarded to the Tribal State Association and approved on June 2, 2010. The motion was seconded by Chairman Shelton.

Chairman Shelton expressed how wonderful it is that throughout this process everyone is still talking, reacting and sharing ideas with one another. Chairman Shelton further indicated his concern in the beginning was with the staff gaining the expertise to help the smaller tribes. Chairman Shelton stated that the larger tribes had the ability to hire experts to complete their oversight, but that it was his hope that the Commission would use their expertise, developed with the help of the larger tribes, to help the smaller tribes with problems that arise. He stated the Department of Justice has the same motives and motivation and he thanked Mr. Appelsmith.

The motion entered by Commissioner Shimazu was unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Shelby and Shimazu voting yes.

Written comments that were submitted to the Commission by Elizabeth D. Kipp, Tribal Chairperson for Big Sandy Rancheria Gaming Commission, are incorporated into the minutes as Attachment A.

### **PUBLIC COMMENT**

There were no comments at this time

### **ADJOURNMENT**

Chairman Shelton adjourned the meeting at 10:14 a.m.