NATIONAL
INDIAN
GAMING
COMMISSION

AUG 24 1995

Wayne Seyler, Tribal Council Chairman
Spokane Tribe of Indians
P.O. Box 100
Wellpinit, WA 99040

Dear Chairman Seyler:

This letter responds to John Kieffer's, Tribal Council Vice-Chairman, July 5, 1995, appeal of the disapproval of your gaming ordinance, Resolution No. 1993-074, by the National Indian Gaming Commission (NIGC). Unfortunately, we must dismiss the Tribe's appeal because the letter of appeal was filed after the statutory deadline. In addition, the information contained within the appeal does not bring the Tribe's gaming ordinance into compliance with the Indian Gaming Regulatory Act (IGRA).

The gaming ordinance was adopted by the Spokane Tribe of Indians (Tribe) on February 18, 1993. It was submitted to the NIGC for approval on September 28, 1994. Because this was an existing ordinance, 25 C.F.R. § 523.3 states that the Chairman must notify the Tribe of specific areas of noncompliance. The Tribe then had 120 days from receipt of the notice to bring the ordinance into compliance. The Chairman notified the Tribe of the deficiencies by letter dated January 12, 1995. In response the Tribe submitted a letter on May 10, 1995. However, the Chairman determined that this submission did not address all of the deficiencies noted in the January 12, 1995, letter. On May 23, 1995, the Chairman of the NIGC disapproved the Tribe's gaming ordinance.

Pursuant to 25 C.F.R. § 524.1, a tribe may appeal the disapproval of a gaming ordinance. However, the appeal must be filed with the NIGC within 30 days after the Chairman serves his determination under 25 C.F.R. Part 519. Therefore, under 25 C.F.R. § 519(a)(4), the appeal was due in our office on or before June 22, 1995; otherwise, the Tribe's right to appeal would be waived. The NIGC received a facsimile of the Tribe's appeal on July 5, 1995. Because the appeal was received after the statutory deadline, the appeal is hereby dismissed for failure to meet the statutory filing requirement.

Furthermore, the information contained in the letter submitted July 5, 1995, still does not meet the requirements of 25 C.F.R. Part 558. The Chairman's May 23, 1995, disapproval letter stated that the Tribe failed to provide that it will conduct background investigations according to the requirements at least as stringent as those in 25 C.F.R. Part 558 pursuant to 25 C.F.R. § 522.4(b)(5). Part 558 is titled "Gaming Licensing for Key Employees and Primary Management Officials." This Part covers the eligibility determination for employment in the gaming operation, procedures for forwarding applications and reports for key employees and primary management officials to the NIGC, granting of gaming licenses, and license suspension.

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In Vice Chairman Kieffer's letter of appeal he stated that the Tribe felt that § 2.17(a) of the gaming ordinance satisfied 25 C.F.R. Part 558. Section 2.17(a) reads, "Correspond with the National Indian Gaming Commission and do whatever is necessary to complete compliance with the rules and regulations of that agency. Specifically, the Commission shall arrange for an annual outside audit of authorized gaming and will provide a copy to the National Indian Gaming Commission." However, the gaming ordinance specifically states, in § 3.10, that teh Tribe will conduct background investigations at least as stringent as 25 C.F.R. Part 556. With this clause in the ordinance, the absence of a similar clause relating to 25 C.F.R. Part 558 appears intentional. Since the Tribe makes specific reference in § 3.10 of the gaming ordinance to 25 C.F.R. Part 556, we can not accept the general statement in § 2.17(a) to fulfill the requirements of 25 C.F.R. Part 558. Therefore, the general statement in 2.17(a) is not sufficient to meet the specific requirements of 25 C.F.R. § 522.4(b)(5).

While we look forward to working with the Spokane Tribe of Indians as you comply with the Indian Gaming Regulatory Act, at this time we must dismiss the Tribe's appeal. If you have any questions concerning this letter or the ordinance review process, please contact the Legal Staff at (202) 632-7003.

Sincerely,

Harold A. Monteau
Chairman

Jana McKeag
Commissioner

cc: John Kieffer, Tribal Council Vice-Chairman