NATIONAL INDIAN GAMING COMISSION

NOTICE OF VIOLATION

NOV-08-16

TO: Pueblo of Tesuque
Attn: Robert A. Mora Sr., Governor, Governor
(Agent for Service of Process)
Rte 42, Box 360-T
Pueblo of Tesuque, NM 87506
FAX: (505) 982-2331

Tesuque Pueblo Gaming Commission
Attn: Patrick Fennier, Interim Chairman
P.O. Box 809
Tesuque, NM 87506
FAX: (505) 955-0142

Tesuque Pueblo Gaming Commission
Attn: Shawna Samuel, Executive Director
P.O. Box 809
Tesuque, NM 87506
FAX: (505) 955-0142

Amanda Wilbur, General Counsel
Office of the Governor
Route 42 Box 360-T
Santa Fe, NM 87506
FAX: (505) 982-2331

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Pueblo of Tesuque (Respondent or Tribe), located in Tesuque, NM, has violated the Indian Gaming Regulatory Act (IGRA) and NIGC regulations by failing to submit an annual audit.

2. Authority

Under IGRA and NIGC regulations, the Chairman of the NIGC (Chairman) may issue a Notice of Violation (NOV) to any person for violation of any provision of the IGRA,

NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairman. 25 U.S.C. § 2713; 25 C.F.R. § 573.3.

3. Applicable Federal Laws

   A. IGRA requires an annual audit of each gaming operation and requires that copy of the results of the annual audit be submitted to the NIGC. 25 U.S.C. § 2710(b)(2)(C).

   B. NIGC regulations require that a tribe cause to be conducted annual independent audits of the financial statements of each gaming operation on Indian lands and submit a copy of the audit report(s) and any management letter(s) setting forth the results of the annual audit(s) to the NIGC within 120 days after the end of each gaming operation's fiscal year. 25 C.F.R. §§ 571.12 and 571.13.

   C. NIGC regulations define "gaming operation" as "each economic entity that is licensed by a tribe, operates the games, receives the revenues, issues the prizes and pays the expenses." A gaming operation may be operated by a tribe directly; by a management contractor; or, under certain conditions, by another person or other entity. 25 C.F.R. § 502.10.

4. Role of Independent Audit Report

   Submission of the annual independent audit report by a firm of certified public accountants is critical to the NIGC's mission to protect the integrity of Indian gaming. A firm's ability to conduct an audit in accordance with generally accepted auditing standards and render an opinion on the financial statements prepared in conformity with generally accepted accounting principles provides a certain level of assurance as to the security of tribal gaming revenues. The audit report prepared and submitted on a timely basis is evidence of , among other things, the integrity of the gaming operation and, more specifically, of the adequacy of the books and records, the functioning of the internal financial controls, and the disclosure of information having a bearing on the financial statements.

5. Circumstances of the Violation

   A. Respondent is a federally recognized Indian Tribe with tribal headquarters in Tesuque, New Mexico.

   B. The Tribe operated its gaming facility, Camel Rock Casino, during all or part of 2007.

   C. IGRA requires that tribes submit annual audits of each gaming facility. 25 U.S.C. § 2710(b)(2)(C). NIGC regulations require that a tribe cause to be conducted an

annual independent audit of the financial statements of each gaming operation on Indian lands and submit a copy of the audit report(s) and management letter(s) setting forth the results of the annual audit(s) to the NIGC within 120 days after the end of each gaming operation's fiscal year. 25 C.F.R. §§ 571.12, 571.13.

D. The fiscal year for the gaming operation named in this violation ended December 31, 2007.

E. The audit report for the facility named in this violation was due to NIGC on or before April 29, 2008.

F. NIGC has not received an audit report for the gaming operation named in this violation.

G. The Tribe is therefore in violation of IGRA and NIGC regulations for failure to submit an annual independent audit report.

6. Measures Required to Correct the Violation

Audits must be received within 120 days of the end of a gaming operations fiscal year. 25 C.F.R. § 571.13. While there is no remedial action that can correct the failure to submit the 2007 audit, improved controls to ensure timely compliance of the next audit should be put in place.

Additionally, however, there is a continuing violation because the Tribe has yet to submit any audit reports for the fiscal year ended December 31, 2007. The continuing violation ceases upon the NIGC's receipt of the delinquent audit reports.

7. Appeal

Within thirty (30) days after service of this Notice of Violation, Respondent may appeal to the full Commission under 25 C.F.R. Part 577 by submitting a notice of appeal, and, if desired, request for hearing to the National Indian Gaming Commission, 1441 L Street NW, Ninth Floor, Washington, DC 20005. Respondent has a right to assistance of counsel in such an appeal. A notice of appeal must reference this Notice of Violation.

Within ten (10) days after filing a notice of appeal, Respondent must file with the Commission a supplemental statement that states with particularity the relief desired and the grounds therefore and that includes, when available, supporting evidence in the form of affidavits. If Respondent wishes to present oral testimony or witnesses at the hearing, Respondent must include a request to do so with the supplemental statement. The request to present oral testimony or witnesses must specify the names of proposed witnesses and the general nature of their expected testimony, whether a closed hearing is requested and why. Respondent may waives its right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.

8. Fine-Submission of Information

The violation cited above may result in the assessment of a civil fine against Respondent in an amount not to exceed $25,000 per violation per day. Under 25 C.F.R. § 575.5(a), Respondent may submit written information about the violation to the Chairman within fifteen (15) days after service of this notice of violation (or such longer period as the Chairman may grant for good cause). The Chairman shall consider any information submitted in determining the facts surrounding the violation and the amount of the civil fine, if any.

Dated this 21 of August, 2008

PHILIP N. HOGEN
Chairman

HEATHER L. MCMILLAN
Staff Attorney

Certificate of Service

I certify that this **Notice of Violation** was sent by facsimile transmission and certified U.S. mail, return receipt requested, on this 21st day of August, 2008 to:

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Attn: Robert A. Mora Sr., Governor
(Agent for Service of Process)
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Shakira Ferguson