NATIONAL INDIAN GAMING COMMISSION

NOTICE OF VIOLATION

NOV-09-23

TO: Fort Mojave Tribe
Attn: Timothy Williams, Chairman
500 Merriman Avenue
Needles, CA 92363
Fax: (760) 629-5767

Fort Mojave Tribe Gaming Commission
Attn: Debbie Jackson, Commissioner
8490 S. Highway 95, Suite 103
Mohave Valley, AZ 86440
Fax: (928) 346-2205

Mojave Crossing Casino
Attn: Vincent Jaime, General Manager
101 Aztec Road
Fort Mohave, Arizona 86426
Fax: (928) 330-2558

Spirit Mountain Casino
Attn: Jack Medrano, General Manager
8555 S. Highway 95
Mohave Valley, AZ 86440
Fax: (928) 346-2007

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Fort Mojave Tribe (Respondent or Tribe), located in Needles, California, has violated NIGC regulations and the Tribe's gaming ordinance by failing to submit timely annual audits.

2. Authority

Under the Indian Gaming Regulatory Act (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 and Tribal Ordinance Provisions

A. IGRA requires an annual audit of each gaming operation and requires that a 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.

D. The Fort Mojave Tribal Gaming Ordinance provides:

The Tribal Gaming Commission shall require, and the Tribal Council shall cause, an audit to be conducted each year on all Class II and Class III gaming activities licensed or conducted on Indian lands. Such audit(s) shall be conducted by an independent auditing firm, selected at the sole discretion of the Tribal Council, or the Tribal Gaming Commission on its behalf. However, nothing in this paragraph shall prohibit the annual audit of tribal gaming activities from being encompassed within the Tribe's existing audit system. Fort Mohave Indian Tribe Gaming Ordinance, § 23(A)(1) (Feb. 15, 1994, as amended).

E. The Fort Mojave Tribal Gaming Ordinance further provides:

Each contract for supplies, services, or concessions with a contract amount in excess of $25,000 annually (except contracts for professional legal or accounting services) relating to a Class II or Class III gaming activity shall be subject to the independent audit requirement required by subparagraph (A), above. *Id.,* § 23(B).

F. The Fort Mojave Tribal Gaming Ordinance further provides:

The Tribal Gaming Commission shall furnish a copy of each annual gaming activities audit report to the National Indian Gaming Commission, as required by 25 U.S.C. § 2710(b)(2)(C). *Id.,* § 23(C).

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 Needles, California.

B. The tribe operated its gaming facilities, Spirit Mountain Casino and Mojave Crossing Casino, during all or part of Fiscal Year ending September 30, 2008.

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 Spirit Mountain Casino gaming operation and the Mojave Crossing Casino gaming operation ends September 30.

E. The audit report for the Spirit Mountain Casino was due to NIGC on or before January 28, 2009.

F. As of April 1, 2009, the NIGC has not received the audit report for the Spirit Mountain Casino.

G. The audit report for the Mojave Crossing Casino was due to NIGC on or before January 28, 2009.

H. As of April 1, 2009, the NIGC has not received the audit report for the Mojave Crossing Casino.

I. The Tribe is in violation of NIGC regulations for failure to submit a timely annual independent audit reports.

J. The Tribe is in violation of its gaming ordinance, Section 23(c), by failing to submit its annual audit report to the NIGC.

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. There is no remedy to cure the failure to submit timely audit reports. However, to end the on-going violation, the Tribe should submit the required audit reports to the NIGC within 30 days. In addition, improved controls to ensure timely submission of future audits should be put in place.

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 17th day of April, 2009

PHILIP N. HOGEN
Chairman

ESTHER DITTLER
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 __17th__ day of April, 2009 to:

Frances Fragua
Legal Assistant