# National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-08-10

To: A.T. Stafne
Chairman and Agent for Service of Process
Assiniboine and Sioux Tribes of Fort Peck
PO Box 1027
Poplar, MT 59255
FAX: (406) 768-5478

Tribal –State Agreements Oversight Commission
Attn: Helen Ricker, Acting Chairperson
P.O. Box 1027
Poplar, MT 59255
FAX: (406) 768-3356

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Assiniboine and Sioux Tribes of Fort Peck (Respondent, Tribe, or Tribes), located in Poplar, Montana, have violated NIGC regulations 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 Indian Gaming Regulatory Act (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 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. *See also* 25 U.S.C. § 2710(b)(4).

C. 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 fiscal year. 25 C.F.R. §§ 571.12 and 571.13

D. Section 411 of Title 20 to the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation Gaming Ordinance (Ordinance), the Tribes' approved gaming ordinance, requires that "[e]ach licensee, including the Tribes, shall arrange for an annual outside audit for presentation to the National Indian Gaming Commission." It further requires that "the tribal subdivisions shall provide their audit reports to the Tribes for review at least thirty (30) days before they are due to the Commission, and the Tribes shall forward all audit reports to the Commission."

E. Section 206 of the Ordinance defines "tribal subdivision" as, among other things, "the community organization of each Reservation community."

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 Poplar, Montana.

B. Respondent licensed the following gaming operations which were open and operating during all or part of the Tribal Gaming Operations' fiscal year from October 1, 2006 to September 30, 2007:

- B&S Laundry, Brockton, Montana
- TJ's Quickstop, Poplar, Montana
- Silver Wolf Casino, Wolf Point, Montana

- Git-N-Go, Wolf Point, Montana
- Tribal Express Casino, Poplar, Montana

C. The audit reports for the above-named gaming operations were due to the NIGC on January 28, 2008, 120 days after the gaming operations' fiscal years ended on September 30, 2007.

D. The NIGC received audit reports for all gaming operations on April 30, 2008, 93 days after the deadline.

E. IGRA requires that tribes submit annual audits of each gaming operation. 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 fiscal year. 25 C.F.R. §§ 571.12, 571.13. Respondent has therefore violated these regulations, as well as Section 411 of the Ordinance, for failure to submit timely annual independent audit reports.

6. Measures Required to Correct the Violation

There is no way to correct this violation for an untimely audit report submission. The regulations require that audits be received within 120 days of the end of the fiscal year.

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 waive 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 27th of June, 2008.

PHILIP N. HOGEN
Chairman

JENNIFER O. WARD
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 27th day of June, 2008 to:

A.T. Stafne
Chairman and Agent for Service of Process
Assiniboine and Sioux Tribes of Fort Peck
PO Box 1027
Poplar, MT 59255
FAX: (406) 768-5478

Tribal –State Agreements Oversight Commission
Attn: Helen Ricker, Acting Chairperson
P.O. Box 1027
Poplar, MT 59255
FAX: (406) 768-3356

Frances Fragua