National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-06-02

To: John Feliz, Jr., Chairperson (Agent for Service of Process)
Coyote Valley Band of Pomo Indians
7701 North State Street
P.O. Box 39
Redwood, CA 95470
FAX: (707) 485-1247

1. Notification of Violation

The Chairman of the National Indian Gaming Commission ("NIGC") hereby gives notice that the Coyote Valley Band of Pomo Indians ("Respondent" or "Band"), located in Redwood, California, is in violation of the Indian Gaming Regulatory Act ("IGRA"), NIGC regulations and its gaming ordinance for failure to timely submit an annual audit and failure to submit timely quarterly fee statements and fee payments.

2. Authority

Under regulations of the National Indian Gaming Commission, 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 C.F.R. § 573.3.

3. Applicable Federal and Tribal Laws

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) 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.

C. NIGC regulations require that each gaming operation on Indian lands compute quarterly statements determining the amount of fees owed to the Commission. The quarterly statements are due on March 31, June 30, September 30, and December 31 of each calendar year the gaming operation is subject to the jurisdiction of the NIGC. The quarterly statements shall be transmitted to the Commission and arrive no later than the due date. 25 C.F.R. §§ 514.1(c) and 514.1(c)(2)-(4).

D. NIGC regulations require each gaming operation to remit to the Commission the fees due each quarter with the quarterly statement. 25 C.F.R. § 514.1(c)(5).

E. Section 1 of the Coyote Valley Gaming Ordinance of 1994 ("Ordinance"), the Tribe's approved gaming ordinance, provides that the purpose of the Ordinance is to develop, operate and regulate gaming in conformity with the IGRA and regulations promulgated thereunder.

F. Section 4 (j)(10) of the Ordinance requires the Gaming Commission to comply with any reporting requirements established under IGRA.

G. Section 4 (k)(1) of the Ordinance requires the Gaming Commission to comply with any reporting requirements under IGRA and regulations promulgated thereunder.

H. Section 8 of the Ordinance requires that annual auditing by a recognized independent accounting firm shall be conducted of each gaming activity and the results thereof reported, to the extent required by law, to the NIGC.

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 principals 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. Role of Quarterly Fees and Quarterly Statements

The annual fees collected by the NIGC in order to fund the agency's work are based upon the quarterly worksheets submitted by Indian gaming operations. NIGC must set a fee rate sufficient to fund its annual budget, yet may not exceed the fee cap set by Congress.

Thus, it is imperative that the NIGC receive worksheets from the gaming operations in a timely manner so that the NIGC is able to set accurate preliminary and final fee rates.

6. Circumstances of the Violation

A. Respondent is a federally recognized Indian Tribe with tribal headquarters in Redwood, California.

B. Respondent operated its gaming facility, Shodakai Casino, during all or part of the following years: 2000, 2002, 2003, 2004 and 2005.

C. The NIGC received an untimely audit report for the fiscal year ending December 31, 2004. The audit report was due to the NIGC on April 29, 2005, 120 days after the end of the Tribe's fiscal year. The audit report was received by the NIGC on January 6, 2006.

D. The NIGC has received untimely quarterly statements and fee payments for the quarters up to December 31, 2004 as follows:

Quarter:	Due:	Received:
1st 2000	3/31/00	4/13/00
1st 2002	3/31/02	5/9/02
1st 2003	3/31/03	11/12/03
2nd 2003	6/30/03	11/12/03
3rd 2003	9/30/03	11/12/03
1st 2004	3/31/04	8/3/04
2nd 2004	6/30/04	8/3/04
3rd 2004	9/30/04	6/23/05
4th 2004	12/31/04	6/23/05
1st 2005	3/31/05	1/9/06
2nd 2005	6/30/05	1/9/06
3rd 2005	9/30/05	1/9/06
4th 2005	12/31/05	1/9/06

7. Measures Required to Correct these Violations

There is no way to rectify the late submission of the 2004 audit. NIGC regulations require that the audit be received within 120 days of the end of the gaming operation's fiscal year. 25 C.F.R. § 571.13.

There is no way to rectify submission of late quarterly statements and fee payments. The regulations require that the quarterly statement and fee payment be transmitted to the Commission to arrive no later than the due date.

8. Appeal

Within 30 (thirty) 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.

9. 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 15 days after service of this notice of violation (or such longer period as the Chairman of the Commission 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 18th day of January, 2006.

PHILIP N. HOGEN
Chairman
National Indian Gaming Commission

WENDY L. HELGEMO
Staff Attorney

Certificate of Service

I certify that this **Notice of Violation** was sent by facsimile and mailed on this 18th day of January, 2006 to:

John Feliz, Jr., Chairperson (Agent for Service of Process)
Coyote Valley Band of Pomo Indians
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Wendy Helgemo
Staff Attorney