National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-04-02

To: Carl Venne
Chairman (Agent for Service of Process)
Crow Tribe
Box 159
Crow Agency, MT 59022

1. The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Crow Tribe (hereafter referred to as "Respondent"), located in Crow Agency, Montana, is in violation of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 *et seq.*, NIGC regulations, 25 C.F.R. § 501 *et seq.*, and its tribal gaming ordinance.

2. These violations include:

   A. failing to submit annual audits for 2002 and 2003 for the Respondent's Little Big Horn Casino;

   B. failing to submit quarterly statements of gross assessable revenue for the Little Big Horn Casino for 2002 and 2003.

3. Authority. Under regulations of the National Indian Gaming Commission, the Chairman of the NIGC (hereinafter "Chairman") may issue a Notice of Violation (hereinafter "NOV") to any person for violation of any provision of the Indian Gaming Regulatory Act, NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairman. 25 C.F.R. § 573.3.

4. Applicable Federal and Tribal Laws:

   A. 25 U.S.C. § 2710(b)(2)(C) – Pursuant to IGRA, an annual audit of each gaming operation is required. Further, a copy of the annual audit and its results must be submitted to the NIGC.

B. 25 C.F.R. §§ 571.12 and 571.13 – 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 of each gaming operation.

C. 25 C.F.R. § 514.1 – NIGC regulations require Tribes submit, for each gaming operation, quarterly statements showing assessable gross revenues for the previous year. These quarterly statements shall be filed no later than March 31, June 30, September 30, and December 31, of each calendar year.

D. Section 33(A) and (C) of the Crow Tribe's gaming ordinance – The approved gaming ordinance requires the Tribe obtain outside annual audits for all of its gaming operations and to submit the audit reports to the NIGC.

5. 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.

6. The circumstances of the violation are:

A. Respondent is a federally recognized Indian Tribe with tribal headquarters in Crow Agency, Montana.

B. Respondent operated its gaming facility, Little Big Horn Casino, during all or part of the following years: 2002 and 2003.

C. Respondent did not submit quarterly statements showing gross assessable revenue for the Little Big Horn Casino in 2002 and 2003.

D. To date the NIGC has not received audit reports or management letters for the Little Big Horn Casino for fiscal year 2002 and fiscal year 2003.

7. 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 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.

§§ 571.12-13. Respondent is therefore in violation of IGRA, 25 U.S.C. § 2710(b)(2)(C), NIGC regulations, 25 C.F.R. §§ 571.12-13, and Respondent's gaming ordinance at section 33(C) for failure to submit annual independent audit reports for the Little Big Horn Casino.

8. NIGC regulations require that tribes submit, for each gaming operation, quarterly statements showing assessable gross revenues for the previous year. *See* 25 C.F.R. §514.1. Thus, Respondent is in violation of NIGC regulations, 25 C.F.R. § 514.1, for failure to submit quarterly statements showing gross assessable revenue for the Little Big Horn Casino.

9. The NIGC has sought compliance from Respondent on several occasions through meetings and correspondence.

10. To correct this continuing violation, Respondent shall:

    Submit independent audit reports, management letters, and quarterly statements of gross assessable revenue, within fifteen (15) days of receipt of this letter for the years listed in paragraph 6 of this notice.

11. 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.

12. 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 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 23 day of June, 2004

Philip N. Hogen
Chairman
National Indian Gaming Commission

Jo-Ann M. Shyloski
Staff Attorney