National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-08-03

To: Kalispel Tribe of Indians
Attn: Glen Nenema, Chairman
(Agent for Service of Process)
P.O. Box 39
1481 N. LeClerc
Usk, WA 99180
FAX: (509) 445-1705

Kalispel Tribal Gaming Agency
Attn: Debbie Flandro, Chairperson
100 N. Hayford Rd.
Usk, WA 99180
FAX: (509) 343-2579

Miller Nash LLP
Attn: Christine M. Masse, P.C.
4400 Two Union Square
601 Union Street
Seattle, WA 98101
FAX: (206) 622-7485

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Kalispel Tribe of Indians, located in Usk, Washington, has violated NIGC regulations by failing to submit a timely annual audit.

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. 25. U.S.C. § 2710(b)(2)(C) – 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.

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 gaming operation's fiscal year.

C. Section 11-6.04 of the Kalispel Tribal Gaming Ordinance –
The Board's duties shall include but not be limited to the following: Correspond with the National Indian Gaming Commission and do whatever is necessary to complete compliance with the rules and regulations of that agency. Specifically, the Board shall arrange for an annual outside audit of authorized gaming and will provide a copy to the National Indian Gaming Commission. The audits will include all gaming related contracts resulting in expenditures of $25,000 or more in any year, except for professional legal and accounting services.

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, the Kalispel Tribe of Indians, is a federally recognized Indian Nation with tribal headquarters in Usk, Washington.

B. Respondent operated its gaming facility, the Northern Quest Casino, during all or part of the following years: 2006 and 2007. The fiscal year began on October 1, 2006 and ended September 30, 2007.

C. The NIGC received an untimely financial statement for the fiscal year ending September 30, 2007. The statement was due to the NIGC on January 28, 2008. By NIGC regulation, these audits are due 120 days after the end of the Tribe's fiscal year.

D. The audit was received by the NIGC on April 1, 2008. Therefore, the audit was 63 days late.

E. 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 fiscal year. 25 C.F.R. §§ 571.12, 571.13. The Nation is therefore in violation of these regulations for failure to submit a timely annual independent audit report.

6. Measures Required to Correct the Violation

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

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 30 of April, 2008.

PHILIP N. HOGEN
Chairman

REBECCA CHAPMAN
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 30th day of April, 2008 to:

Kalispel Tribe of Indians
Attn: Glen Nenema, Chairman
(Agent for Service of Process)
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Rebecca Chapman

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