NOTICE OF VIOLATION

Ref: NOV-00-03
Dated: January 19, 2000

To: Earl Yeaquo, Chairman
Kiowa Tribe of Oklahoma
P.O. Box 369
Carnegie, Oklahoma 73015

1. The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Kiowa Tribe of Oklahoma (hereafter referred to as "Respondent"), located in Carnegie, Oklahoma is in violation of the Indian Gaming Regulatory Act (IGRA) and NIGC regulations, and its 1995 Gaming Ordinance.

2. The circumstances of the violations are:

Failure to submit quarterly statements and pay fees

Respondent is a federally recognized Indian Tribe with tribal headquarters in Carnegie, Oklahoma. Since November 1995, Respondent has engaged in gaming on tribal lands located in Carnegie, Oklahoma pursuant to The Kiowa Indian Tribe of Oklahoma Gaming Ordinance of 1995. Respondent's tribal gaming operation is required by 25 U.S.C. § 2717 and 25 C.F.R. Part 514 to pay fees to the National Indian Gaming Commission. Said fee payments are to be made quarterly and are to be remitted with quarterly statements showing assessable gross revenues for the previous calendar year. Quarterly statements and fee payments are to be filed no later than March 31, June 30, September 30 and December 31 of each calendar year. Respondent has not filed a quarterly statement or paid a fee since it began operating, and is therefore in violation of the Indian Gaming Regulatory Act, 25 U.S.C.§ 2717 and NIGC regulations, 25 C.F.R. Part 514, for its failure to submit quarterly statements of assessable gross revenues and to make payment of any quarterly fees which may be owing.

Failure to submit annual audits

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.[1] 25 C.F.R. §§ 571.12-13. As of this date, the

---

1 According to Section 2.6 (2) of the Tribe's approved 1995 Gaming Ordinance, audits are to be conducted once each calendar year, indicating that the Tribe's fiscal year is January 1 through December 31.

NIGC has not received the Respondent's audit report and management letter for its gaming operation for the years ended December 31, 1997, and December 31, 1998. These items were due to the NIGC no later than April 30 of each following year. Respondent is therefore in violation of NIGC regulations, 25 C.F.R. §§ 571.12-13, for its failure to submit an annual independent audit report.

Failure to submit background investigations

NIGC regulations, 25 C.F.R. § 556.5 require that when a tribe employs a primary management official or a key employee in its gaming operation, the tribe is required to forward to the NIGC a completed application. Those regulations also require that, before issuing a license to a primary management official or to a key employee, a tribe shall forward to the NIGC an investigative report on such employee's background investigation. Submission of completed applications and background investigations for key employees and primary management officials is also required under Sections 6.4 and 6.5 of Respondent's 1995 Gaming Ordinance. No applications or background investigations have been submitted regarding current primary management officials or key employees. Respondent is therefore in violation of NIGC regulations 25 C.F.R. § 556.5 and Sections 6.4 and 6.5 of its approved gaming ordinance for its failure to submit reports to the NIGC.

3. To correct these continuing violations, Respondent shall, on or before March 20, 2000:

a. Submit all past due quarterly statements of assessable gross revenues and fee payments, such fee payments to include interest of five per cent per annum calculated from the initial due date.

b. Submit independent audit reports and management letters for the years ending December 31, 1997, and December 31, 1998.

c. Submit applications and background investigations for all key employees and primary management officials.

4. **Failure to correct the continuing violations within the time prescribed herein will result in an order of temporary closure.**

5. Appeal. 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 and Order.

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.

6. Fine--Submission of Information. The violations cited above may additionally result in the assessment of civil fines 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 violations 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.

Montie R. Deer
Chairman
National Indian Gaming Commission