NATIONAL
INDIAN
GAMING
COMMISSION

NOTICE OF VIOLATION

Ref. No.: NOV-98-15

VIA FAX AND CERTIFIED MAIL

To: Lawrence Cantrell, Chairman
Pit River Indian Tribe
P.O. Drawer 70
Burney, CA 96013
Fax (530) 335-3140

Respondent

1. Under National Indian Gaming Commission (hereinafter referred to as the "NIGC") regulations, the Chairman may issue a notice of violation to any person for violation of any provision of the Indian Gaming Regulatory Act (hereinafter referred to as "IGRA") or NIGC regulation or any provision of the tribal ordinance or resolution approved by the Chairman. 25 C.F.R. § 573.3.

2. The Chairman hereby gives notice that the Pit River Indian Tribe (hereinafter referred to as the "Tribe" or the "Respondent") is in violation of IGRA, its tribal gaming ordinance[1], and NIGC regulations as follows:

   a. The IGRA states that a tribe may engage in gaming if, among other requirements, a tribe's approved gaming ordinance requires submission to the NIGC of an annual independent audit of the gaming operation. 25 U.S.C. § 2710(b)(2)(C) and (d)(2)(A).

   b. Section 4(n) of the Approved Ordinance requires the Tribe to comply with any reporting requirements established under IGRA and the regulations promulgated thereunder. Section 8 of the Approved Ordinance requires the Tribe to submit the annual independent audit report to the NIGC.

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[1] On May 26, 1995, the Tribe adopted a gaming ordinance by Resolution 95-05-02 (hereinafter referred to as the "Approved Ordinance") which was approved by the Chairman of the NIGC on February 7, 1996 (attached as Exhibit 1).

1441 L STREET, N.W. 9TH FLOOR WASHINGTON, D.C. 20005 TEL.: 202-632-7003 FAX: 202-632-7066

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.

d. On August 25, 1998, the audit firm of Moss, Levy, Hartzheim & Albonico, LLP (hereinafter referred to as "Moss"), and the Tribe requested an extension until November 26, 1998, to submit the annual audit report for the Pit River Casino for the fiscal year ended April 30, 1998 (Letter attached as Exhibit 2).

e. On September 4, 1998, the NIGC informed the Tribe, Moss, and the Tribal Gaming Commission that the extension request was denied (Letter attached as Exhibit 3).

f. As of the date of this Notice of Violation (hereinafter referred to as "NOV"), the NIGC has not received the Respondent's audit report and management letter for Pit River Casino for the fiscal year ended April 30, 1998. These items were due to the NIGC no later than August 28, 1998.

3. The measures required to correct the ongoing violation are:

a. The Respondent must submit the audit report and any management letter for the Pit River Casino for the fiscal year ended April 30, 1998, to the NIGC within ten (10) days of service of this NOV.

The audit report and management letter are to be submitted to: Chairman, National Indian Gaming Commission, 1441 L Street, NW, 9th Floor, Washington, DC 20005.

4. The violation cited in this NOV may result in the assessment of civil fines against the Respondent in an amount not to exceed $25,000 per day. Under 25 C.F.R. § 575.5(a), the Respondent may submit written information about the violation to the NIGC Chairman within 15 days after service of this NOV (or such longer period as the NIGC Chairman may grant for good cause). The NIGC Chairman shall consider any information submitted in determining the facts surrounding the violations and the amount of the civil fine, if any. Such information is to be submitted to the address set forth in paragraph 3.

5. The Respondent may appeal the allegations contained in this NOV to the NIGC within 30 days after service of this NOV. 25 C.F.R. Part 577. The Respondent may appeal the allegations by submitting a Notice of Appeal to the NIGC at the address set forth in paragraph 4 above. The Respondent has a right to be represented by counsel in such an appeal. A Notice of Appeal must reference this NOV. Within ten (10) days after filing a Notice of Appeal, the Respondent must file with the NIGC a supplemental statement that

states with particularity the relief desired and the grounds therefore and includes, when available, supporting evidence in the form of affidavits.

If the Respondent wishes to present oral testimony or witnesses at a hearing, the Respondent must include a request to do so with the supplemental statement. The request to present oral testimony must specify the names of the proposed witnesses and the general nature of their expected testimony, and whether a closed hearing is requested and why. The Respondent may waive the right to an oral hearing and instead elect to have the matter determined by the NIGC solely of the basis of the written submissions.

6. A copy of the regulations cited in this NOV is attached for your information (attached as Exhibit 4).

Tadd M. Johnson 9/28/98

Tadd M. Johnson, Chairman
National Indian Gaming Commission

Date

Richard Schiff, NIGC Attorney
(202) 632-7003
Fax (202) 632-7066

cc: David Hawkins, Chairman
Pit River Tribal Gaming Commission

PIT RIVER INDIAN TRIBE

NOV EXHIBIT 1

NATIONAL
INDIAN
GAMING
COMMISSION

FEB - 7 1996

Lawrence D. Cantrell
Tribal Designee
Pit River Tribe
20258 Tamarack Ave.
P.O. Drawer 1570
Burney, CA 96013

Dear Chairman Cantrell:

This letter responds to your request to review and approve the tribal gaming ordinance, Ordinance No. 4, adopted on May 26, 1995, by the Pit River Tribe (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games. It is important to note that the gaming ordinance is approved for [illegible] on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Pit River Tribe for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Harold A. Monteau
Chairman

cc: Theresa Wolfin
Tribal Secretary

1441 L STREET, N.W. 9TH FLOOR WASHINGTON, D.C. 20005 TEL.: 202-632-7003 FAX: 202-632-7066

PIT RIVER TRIBE

Ordinance No. 4

PIT RIVER TRIBAL GAMING ORDINANCE OF 1995

The Pit River Tribe ("Tribe"), a federally recognized Indian Tribe, hereby enacts the following ordinance, known as the "PIT RIVER TRIBAL GAMING ORDINANCE OF 1995" ("Ordinance"). This Ordinance and any regulations promulgated thereunder shall constitute the entire gaming regulations for the Tribe.

Section 1. Findings and Policy.

This Ordinance is adopted by the Pit River Tribal Council, the governing body of the Pit River Tribe of the Pit River Reservation, pursuant to its authority under the Tribe's Constitution and By-laws, for the purpose of establishing the terms for gaming on the Reservation for tribal governmental and charitable purposes, and to develop and operate such gaming consistent with the findings herein and in conformity with the federal Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq. ("IGRA")) and regulations promulgated thereunder.

The Tribe finds that:

a. Gaming under IGRA is a valuable means of reducing unemployment, diversifying revenue generating programs, generating revenues that are needed for economic development, to promote tribal self-sufficiency, economic development, employment, job training, and a strong tribal government, and to fund and ensure essential social programs and services and thereby improve the quality of life among all Members of the Tribe;

b. The desires to conduct gaming to provide needed revenues to the Tribe and provide employment opportunities and to regulate and control such gaming in a manner that will protect Tribal Lands, the environment, the health, security and general welfare of the Tribe, the players, and the community; and

c. The Tribe desires to manage and regulate such gaming in a manner that will adequately address such interests and needs of the Tribe.

Section 2. Definitions.

Unless specified otherwise, terms used herein shall have the same meaning as in IGRA, including but not limited to references to "Net Revenues," "Class I," "Class II," and "Class III" gaming, except for references to "Commissioners," "Commission," or "Gaming Commission" which shall mean the Pit River Tribe Gaming Commission or its Commissioners, established and described herein.

a. "Board of Directors" shall mean those persons responsible for overseeing the operation and management of gaming.

b. "Closely Associated Independent Contractor" shall mean any contractor that shares common ownership, common officers, or common directors with any management principal, or a person related thereto.

c. "Gaming" shall mean an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under his or her control or influence,

upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include bona fide business transactions.

d. "Gaming Activities" shall mean any Class I, Class II, or Class III gaming activity conducted by or within the jurisdiction of the Tribe.

e. "Gaming Commission" or "Commission" shall mean the Pit River Tribe Gaming Commission, as established herein to monitor the Gaming Activities, investigate wrongdoing, conduct background investigations, issue licenses, and perform other duties as necessary for the regulation of gaming on Tribal Lands.

f. "Gaming Contractor" shall mean any person or business that manufactures, distributes, or supplies gaming devices, other gaming equipment, other equipment or services, or personnel (including gaming management or consulting services) to any Gaming Activities or Gaming Entity.

g. "Gaming Entity" shall mean the gaming business, event, or activity (however organized) conducted by or within the jurisdiction of the Tribe.

h. "Key Employee" shall mean a person who performs one or more of the following functions: bingo caller, counting room supervisor, chief of security, custodian of gaming supplies or cash, floor manager, pit boss, dealer, croupier, approver of credit, or custodian of gaming devices including those persons with access to cash and accounting records within such devices. If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year, and the four most highly compensated persons in the Gaming Entity are included in the definition of Key Employees. At the discretion of the Gaming Commission, other positions or persons, and including Gaming Contractors not otherwise included, may be included under and subject to the requirements for Key Employees.

i. "Management Contract" shall mean any contract, subcontract, or collateral agreement between the Tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

j. "Member" shall mean any duly enrolled member of the Tribe.

k. "National Indian Gaming Commission" ("NIGC") shall mean the commission established under IGRA.

l. "Net Revenues" shall mean gross gaming revenues of a tribal gaming operation less (a) amounts paid out as, or paid for, prizes; and (b) total gaming-related operating expenses, excluding management fees.

m. "Person" shall mean any natural person or entity, including but not limited to corporations, partnerships and trusts.

n. "Primary Management Official" shall mean the person who has management responsibility for a management contract; any person who has authority to hire and fire employees or to set up working policy for the Gaming Entity; or the chief financial officer or other person who has financial management responsibility. At the discretion of the Gaming Commission, other positions or persons, and including Gaming Contractors, may be included under and subject to the requirements for primary management officials.

o. "Related to" shall refer to persons who are related as a father, mother, sister or brother.

p. "Tribal Council" shall mean the committee of the elected Tribal representatives, established as the governing body of the Tribe by authority delegated pursuant to the Tribe's Constitution and By-laws.

q. "Tribal Court" shall mean any court established by the Tribe.

r. " Tribal Lands" shall mean those lands which, under IGRA, qualify as "Indian Lands" with respect to the Tribe and on which gaming may be conducted.

Section 3. Ownership of Gaming.

a. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance, except to the extent the Tribe may contract with and license a person or entity to own, operate or manage the Gaming Entity pursuant to the provisions of IGRA or as otherwise permitted by law.

b. Gaming activities conducted on the Reservation, owned by a person or entity other than the Tribe, shall be licensed and regulated by the Tribe under this Ordinance, and conducted in compliance with the requirements of IGRA and 25 C.F.R. §§ 522.10 and 522.11.

Section 4. Gaming Commission.

a. Establishment of Gaming Commission. There is established hereby a Commission acting under the authority of the Tribe to be known as the Pit River Tribe Gaming Commission. The Gaming Commission is responsible for monitoring, licensing and regulation of the Gaming Entity and Gaming Activities.

b. Membership and Appointment. The Gaming Commission shall be composed of five (5) [illegible] and shall serve for three (3) year terms. Four (4) members of the Gaming Commission shall be appointed by the Tribal Council. One (1) of the five (5) Gaming Commissioners shall be appointed from the Tribal Council, and shall serve only during their term as a member of the Tribal Council.

c. Qualifications for Office. The following minimum requirements must be met to qualify for membership on the Commission:

i. Enrolled Member of the Pit River Tribe; and

ii. Twenty-one (21) years of age.

d. Disqualifications for Office. The following persons shall not serve as Commissioners:

i. Employees of any Gaming Entity on the Reservation;

ii. Persons related to any Gaming Contractor (including any principal thereof or Closely Associated Independent Contractor); or

iii. Persons who have been convicted of a felony within the last five (5) year(s).

e. Removal from Office. Commissioners may only be removed from office before the expiration of their terms by the Tribal Council for neglect of duty, malfeasance or other good cause shown.

The procedure for removing a Commissioner shall be the same as for removing a member of the Tribal Council.

f. Quorum. Three (3) members of the Gaming Commission shall constitute a quorum.

g.. Officers and Duties. The Gaming Commission shall select, by majority vote, a Chairman, Vice-Chairman and Secretary. The Chairman shall preside over meetings of the Gaming Commission and the Vice-Chairman shall preside in absence of the Chairman. The Secretary shall record in writing the minutes of all Gaming Commission meetings and all official actions taken by the Gaming Commission.

h. Meetings. Meetings shall be held at least once per month, on the third Friday of the month at 11:00 a.m., at the Tribe's primary meeting facility ("Scheduled Meetings"). Any Tribal member may attend Scheduled Meetings. Scheduled Meetings may be changed at any time by the Gaming Commission, with notice of such change posted prominently at least five (5) business days in advance at the Tribe's primary meeting facility. Notice of meetings shall be given in writing to each Commissioner, served by first class mail or personal delivery at least five (5) business days prior to such meeting. Additional meetings shall be held as called by the Chairman or by at least three (3) other Commissioners. Meetings may be called at any time, by any means, with unanimous consent of the Commissioners. All Commission discussions, deliberations, and votes taken regarding specific license applications and related background investigations, or any other investigations, and any other matter the Commission deems must be kept confidential in order to preserve the integrity of the Gaming Entity or the Tribe or to protect the privacy of the applicant, shall be held in Executive Session.

i. Voting. All actions of the Gaming Commission shall be taken by majority vote. The Commission Chairman may vote on any issue.

j. Compensation for Serving; Fringe Benefits; Reimbursement of Expenses. Commissioners may be compensated for serving on the Commission at rates to be set by the Tribal Council after full [illegible] shall be eligible for fringe benefits which are available to [illegible] employees of the [illegible] provided of such benefits qualifies the Gaming Commission [illegible] benefits. Subject to approval by the Tribal Council and in accordance with procedures to be adopted by that body, Commissioners shall be reimbursed for expenses incurred in connection with the performance of their Gaming Commission duties.

k. Commission Budget. At least annually, the Gaming Commission will develop a budget for the upcoming twelve (12) months operation of the Gaming Commission and shall submit the proposed budget to the Tribal Council for review and approval. The proposed budget shall include all anticipated expenses for staff, travel and meeting expense, and compensation to Commissioners.

l. Powers and Duties.

The Gaming Commission, acting as a regulatory body, shall have the power and duty to:

i. After review by the Tribal Council, adopt such regulations as appropriate in order to implement the provisions of this Ordinance;

ii. Inspect, examine and monitor Gaming Activities and the Gaming Entity, including the power to demand access to and inspect, examine, photocopy and audit all papers, books and records respecting such Gaming Activities and Gaming Entity;

iii. Investigate or cause to be investigated, in conjunction with the tribal or other recognized enforcement agency or agencies, any suspicion of wrongdoing in connection with any Gaming Activities or Gaming Entity;

iv. Conduct or cause to be conducted such investigations as may be necessary to determine compliance with all applicable laws, or with this Ordinance or any contracts, agreements, goods, services, events, incidents, or other matters related to the Gaming Activities or Gaming Entity;

v. Issue licenses to persons and entities connected with the Gaming Activities or the Gaming Entity and, at minimum, to all Key Employees and Primary Management Officials according to requirements at least as stringent as those in 25 C.F.R. parts 556 and 558;

vi. Conduct or cause to be conducted background investigations regarding persons and entities connected with the Gaming Activities or the Gaming Entity and, at minimum, for all Key Employees and Primary Management Officials according to requirements at least as stringent as those in 25 C.F.R. parts 556 and 558;

vii. Hold such hearings, sit and act at such times and places, summon persons to attend and testify at such hearings, take such testimony, and receive such evidence as the Gaming Commission deems relevant in fulfilling its duties;

viii. Administer oaths or affirmations to witnesses appearing before the Gaming Commission;

ix. Implement and administer a system for investigating, licensing and monitoring employees and others connected with the Gaming Activities or Gaming Entity, as described below, and including the issuance of licenses to gaming facilities, individuals and entities as required under this Ordinance and the IGRA;

x. Hear disputes against the Gaming Entity, in accordance with the procedures established in this Ordinance;

xi. Hire such staff and support services for the Commission as deemed necessary, subject to a budget approved by the Tribal Council;

xii. To the extent required, comply with any reporting requirements, including annual reports to the Tribal Council and Members, and those requirements established under any compact to which the Tribe is a party and other applicable law, including the IGRA and regulations promulgated thereunder;

xiii. Promulgate rules for each Class I, Class II or Class III game allowed under this Ordinance, to govern the conduct of such games; and

xiv. Carry out such other duties with respect to the Gaming Activities and Gaming Entity as the Tribal Council shall direct.

m. Quarterly and Annual Reports. On or before the last day of the month immediately following the close of each quarter in each year (for example, by April 30 for the quarter ending March 31; by July 31 for the quarter ending June 30, and so forth), the Gaming Commission shall provide in writing to the Tribal Council a Quarterly Report summarizing its activities during the prior quarterly period, and once a year, by no later than November 15, an annual report for the 12-month period ending on September 30. The Quarterly and Annual Reports shall account for all receipts and disbursements during such period. The Tribal Council shall cause an executive summary of the Annual Report to be made available to Members within thirty (30) days after its receipt. At the request of the Tribal Council, the Gaming Commission shall provide an oral report of its activities to the Tribal Council at least quarterly.

n. Other Reporting Requirements. As required, the Gaming Commission shall comply with any reporting requirements established under a compact to which the Tribe is a party, and other applicable law, including the IGRA and regulations promulgated thereunder.

Section 5. Permitted Gaming Activities.

a. Unauthorized Gaming Prohibited. All Gaming Activities on the Reservation (whether Class I, II or III) are prohibited except as expressly authorized under this Ordinance.

i. Class I Gaming. Class I Gaming Activities are hereby permitted to the extent consistent with tribal custom and practice. The Gaming Commission may prohibit and prevent any conduct which is claimed to be Class I gaming pursuant to a finding that such conduct is not in accordance with tribal customs or practices.

ii. Class II and Class III Gaming; Sole Proprietary Interest . Class II and Class III gaming on the Reservation is hereby authorized, provided the Tribe has the sole proprietary interest in and responsibility for the conduct of any Gaming Entity, or to the extent the Tribe may contract with or license a person or entity to own, operate or manage Gaming Activities or the Gaming Entity, pursuant to the provisions of IGRA or as otherwise permitted by law. Nothing herein shall prohibit the Tribe from engaging the services of non-tribal persons as employees thereof or engaging any person or entity to provide consulting or other technical assistance or to assist the Tribe in the management of Gaming Activities pursuant to a management agreement entered into under the provisions of IGRA.

Section 6. Gaming Revenues.

a. Tribal Property. Except as provided for under the terms of an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, all revenues generated from any Class II or Class III [illegible] the property of the Tribe. Any profits or net revenues from Gaming Activities shall be [illegible] tribal accounts as determined by the Tribe. Once becoming part of such tribal account, such funds shall lose any identity as gaming revenues except to the extent necessary to identify them as such in order to comply with applicable law. No individual Member shall be deemed to have any interest in such profits or net revenues. Payments from tribal accounts under other tribal programs, including those related to health, welfare, education, elderly care, and housing, shall not be deemed to be per capita payments. The Tribe acknowledges the requirements of IGRA, 25 U.S.C. § 2710 (b) (3) regarding gaming revenues.

b. Use of Net Revenues. Net revenues from Gaming Activities shall not be used for purposes other than:

i. To fund tribal government operations or programs;

ii. To provide for the general welfare of the Tribe and its members;

iii. To promote economic development for the Tribe;

iv. To donate to charitable organizations; or

v. To help fund operations of local government agencies.

Section 7. Operation of Gaming Establishments.

a. Gaming Permitted as Licensed. Except to the extent authorized by an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, Gaming Activities shall only be conducted in tribal owned, operated and licensed facilities pursuant to the provisions of this Ordinance. Such activities shall be conducted in accordance with the terms and conditions of any license issued by the Gaming Commission for such purposes as to each facility before any Gaming Activities may occur therein. Such licenses may specify the hours of operation, type and scope of Gaming Activities allowed therein, permitted uses of the facility for other activities, rules of conduct for employees and patrons, food handling and entertainment, and such other matters as the Gaming Commission may deem necessary to the conduct of Gaming Activities therein.

b. Protection of Environment and Public. Any construction or maintenance of any gaming facility, and the operation of gaming therein, shall be conducted in a manner which adequately protects the environment and the public health and safety.

c. Dispute Resolution. Patrons who have complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Gaming Commission. For such purposes, disputes with any management contractor or its employees shall be made to the Gaming Commission, and such shall be the exclusive remedy for patron complaints. Complaints shall be submitted in writing and, at the discretion of the Gaming Commission, the petitioner may be allowed to present evidence. The Gaming Commission will render a decision in a timely fashion and all such decisions will be final when issued, except to the extent reviewed by the Tribal Council as set forth below. Any patron having a claim against the Gaming Entity or a management contractor or its employees must submit such claim to the Gaming Commission within thirty (30) days of its occurrence. All claims by patrons shall be limited to a maximum recovery of $10,000 per occurrence, and a cumulative limit of $20,000 per patron in any twelve (12) month period. Any patron dissatisfied with the decision of the Gaming Commission may seek an appeal, by a request for review, to the Tribal Council. All patrons filing claims with the Gaming Commission shall be [illegible] notice that they may appeal the decision of the Gaming Commission by filing a petition [illegible] with the Tribal Council within ten (10) days of receipt of the Gaming Commission's notification of its final ruling, or from the date notification of the manner and time for appeal was received, whichever last occurs, but in no event more than thirty (30) days after the Gaming Commission's decision has become final. The Tribal Council shall have sole discretion in determining whether or not to grant the petitioner's request for review. If it grants the request, the sole issue before the Tribal Council shall be whether or not, in reaching its final decision, the Gaming Commission acted arbitrarily and capriciously.

Section 8. Audits.

Annual outside auditing by the recognized independent accounting firm selected by the Tribal Council shall be conducted of the Gaming Activities and the results thereof reported to the Tribal Council, the NIGC, and otherwise as required by law. All audits must meet any audit requirements of the Tribe.

Section 9. Contracts / Audits.

a. Gaming Contracts. Unless otherwise exempted by the Gaming Commission, contracts relating to Gaming Activities, the Gaming Entity or any gaming facility (except contracts for professional legal or accounting services) shall be subject to the Tribe's requirements for purchasing such goods and services.

b. Audit Requirements. All contracts for supplies, services, or concessions for a contract amount in excess of $25,000 annually (except contracts for professional legal or accounting services) relating to

Class II or Class III gaming on the Reservation shall be subject to independent audits, and such contracts shall so specify.

Section 10. Licenses.

a. Licensing Requirements. It is the declared policy of the Tribe that all Gaming Activities be licensed and controlled so as to protect the peace, dignity, and welfare of Members and other persons on the Reservation and to preserve the honesty, fairness and integrity of such Gaming Activities. Accordingly, no person or entity shall provide goods or services to, or be employed to conduct, be associated with, supervise, or manage any Class II or Class III Gaming Activities on the Reservation without an appropriate and valid independent Class II or Class III gaming license issued by the Gaming Commission. Any gaming license which is issued, or finding of suitability or approval by the Gaming Commission, shall be deemed a privilege subject to suspension or revocation. No license shall be issued that would place the Tribe in violation of a compact to which the Tribe is a party, or of any applicable law.

b. Burden on Applicant. The burden of proving an applicant's qualification to receive any license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment or other action which may result from the application process and expressly waive any claim for damages as a result thereof.

c. Applicant Claim of Privilege. An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension or revocation.

d. Release of Information. All persons applying for a license shall agree to release all information necessary in order for the Gaming Commission to achieve its goals under this Ordinance, and to furnish such information to the NIGC, and to such other governmental agency as may be required by law.

e. Types of Licenses. Three classes of licenses (Class A, Class B, and Class C) shall be issued to persons and entities associated with Gaming Activities or the gaming facility.

i. Class A Licenses. Before permitting any person to become permanently associated with the Gaming Activities as an investor, management entity, or other person owning or controlling ten percent (10%) or more of any interest in any management entity; or any Primary Management Official; Key Employee; Closely Associated Independent Contractor; or other individual or entity with influence over the management or operation of the gaming; and, unless otherwise exempted, all other gaming employees and Gaming Contractors, such person shall obtain a Class A license. Those who do not meet the qualifications established shall be denied a Class A license. The Gaming Commission shall conduct or cause to be conducted a background investigation to determine if such person has:

(1) Any criminal record or any reputation, prior activities, habits or associations which might pose a threat to the public interest or to the effective regulation of gaming.

(2) Anything else in their background which might create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

ii. Class B Licenses. Persons who are not among those identified in subsection (1) above, but are employed at a gaming facility on the Reservation in a non-gaming related activity, shall be required to obtain a Class B license from the Gaming Commission. Such persons must establish that they have not

been convicted of a crime, or engaged in any activity, which the Gaming Commission in its sole discretion deems would render such person a danger to the safety or integrity of the Gaming Activities or the safety or property of the Tribe, any Member, any gaming employee or patron, or the public.

iii. Class C Licenses. Minors (persons under 18 years of age) employed at a gaming facility on the Reservation may be issued a Class C license, which will entitle them to work in positions for which a Class B license would otherwise be required and in which minors are not otherwise prohibited by law from working. The Gaming Commission will first determine that the minor receiving a Class C license does not pose any threat to the safety or integrity of the Gaming Activities or the safety or property of the Tribe, any Member, any gaming employee or patron, or the public. Such licenses shall be valid for no more than six (6) months before renewal, and shall be revoked upon the minor's reaching the age of eighteen (18), at which time a Class A or B license, as may be appropriate, will be required. Minors shall not be employed as dealers or otherwise to operate or supervise the operations of games.

f. Class A and Class B License Renewal Revocation, and Suspension. Class A and Class B licenses shall be subject to renewal at least every two (2) years. Licenses may be revoked or suspended upon the occurrence of any act which, if known during the application process, or becomes known thereafter, would have tended to disqualify such person for such a license.

g. Temporary Licenses. Pending completion of an investigation for a license, temporary licenses of no more than ninety (90) days duration may be issued by the Gaming Commission if, in its sole discretion, it deems it appropriate to do so. Under no circumstances will the Gaming Commission issue more than two (2) temporary licenses to an individual or entity in any two (2) year period. Such licenses shall permit the licensee to engage in such activities pursuant to such terms and conditions as may be specified by the Gaming Commission. Such temporary licenses shall expire ninety (90) days from date of issuance, upon issuance of a regular license, or until an earlier specified expiration date, whichever occurs first.

h. Background Investigations. The Gaming Commission may employ all reasonable means, including the engagement of outside services and investigators and the holding of hearings, to acquire the information necessary to determine whether or not a license should be issued. Applicants shall also agree to release all information necessary in order for the Gaming Commission to achieve its goals under this section and to furnish such information to the NIGC and to such other agency as may be required by law.

i. License Fees. Unless specifically waived by the Gaming Commission, all persons applying for a Class A, B or C license shall be required to pay all applicable license fees and costs when due, including the reasonable cost for regulation and monitoring of licensees in connection with the license application. Estimates of licensing costs shall be provided to applicants upon request. Unless specifically waived by the Gaming Commission, payment for all fees and costs must be received by the Gaming Commission prior to issuance of the license.

j. Standards. All persons engaged by or associated with any Gaming Activity on the Reservation shall conduct themselves with honesty, integrity, and with such decorum and manners as may be necessary to reflect positively on the Tribe, its members and the Gaming Activities involved. Any failure to abide by such standards, or a violation of any rule, ordinance, custom or tradition of the Tribe, the Reservation or the Gaming Activities, or the terms or conditions of the license, may be grounds for immediate suspension or revocation of any license issued hereunder.

k. Appeals. All decisions of the Gaming Commission regarding the issuance, suspension, or revocation of licenses shall be final and effective when issued; provided, within fifteen (15) days of the receipt of the written decision regarding denial, suspension, or revocation of the license, the applicant may file a petition for reconsideration with the Gaming Commission. Any Member who is denied a license by the Gaming Commission may, within thirty (30) days of the receipt of the written notice of such denial, appeal

the denial to the Gaming Commission, which shall have the power to reverse its prior decision and order that such license be issued. Licenses issued by the Gaming Commission as a result of such appeal shall be issued for no more than one year, and are subject to the renewal procedures set forth herein. No decision of the Gaming Commission that a license be issued shall be valid if such issuance would place the Tribe in violation of a compact to which the Tribe is a party, or of any applicable law.

I. Background Investigations.

i. The Gaming Commission shall request from each Primary Management Official and each Key Employee all of the information specified in subsections (1) through (14) below. Each other applicant for a Class A, Class B or Class C license shall submit such information as the Gaming Commission, in its sole discretion, deems appropriate for the position sought by applicant. The Gaming Commission reserves the right, at any time, to request additional information either prior to, during, or subsequent to any background investigation.

(1) Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);

(2) Current and for at least the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses and drivers license number(s);

(3) Names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence as listed under subsection (b) above;

(4) Current business and residence telephone numbers;

(5) Description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(6) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(7) Name and address of any licensing or regulatory agency with which the person has ever filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(8) For each felony for which there is an on-going prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition, if any, of the case;

(9) For each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application: the name and address of the court involved, and the date and disposition, if any, of the case;

(10) For each criminal charge (excluding minor traffic charges), whether or not there is or was a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed above pursuant to subsections (h) or (i) above: the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;

(11) Name and address of any licensing or regulatory agency (federal, tribal, state, local or foreign) with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(12) Photographs (current at time of application);

(13) Any other information the Tribe or the Gaming Commission deems relevant; and

(14) Fingerprints consistent with procedures adopted by the Gaming Commission according to 25 C.F.R. § 522.2(h).

ii. The Tribe shall conduct or cause to be conducted an investigation, through the Gaming Commission, sufficient to make a determination of eligibility as required under this Ordinance for, at minimum, all Key Employees and Primary Management Officials. In conducting the background investigation, the Gaming Commission and its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

m. Eligibility Determination. The Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of, at minimum, all Key Employees and Primary Management Officials for employment in a gaming operation. If the Gaming Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of Gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming, the Gaming Entity shall not employ that person in a Key Employee or Primary Management Official position or in any other position for which a Class A license is required, except as specifically established by the Gaming Commission.

n. Forwarding Licensing Applications and Reports to NIGC.

i. When any Key Employee or Primary Management Official is employed by a Gaming Entity authorized under this Ordinance, the Gaming Commission, acting on behalf of the Tribe, shall forward to the NIGC the person's completed application for employment containing the information required above under subsection 11.l.(1) of this Ordinance.

ii. Prior to issuing a license to a Primary Management Official or Key Employee, the Gaming Commission, acting on behalf of the Tribe, shall forward to the NIGC, together with a copy of the eligibility determination made under subsection 11.m. above, an investigative report on each background investigation. The investigative report on each background investigation shall be forwarded to the NIGC within sixty (60) days after the employee begins work, or within sixty (60) days of the approval of this Ordinance by the NIGC. The Gaming Entity shall not employ or continue to employ any person as a Key Employee or Primary Management Official who does not have a license within ninety (90) days. The investigative report shall include the following information:

(a) Steps taken in conducting a background investigation;

(b) Results obtained;

(c) Conclusions reached; and

(d) The bases for those conclusions.

iii. The Gaming Commission, acting on behalf of the Tribe, shall provide to the NIGC or other agency, any other reports and information required by IGRA and regulations promulgated thereunder. Further, with respect to Key Employees and Primary Management Officials, the Gaming Commission shall

retain applications for employment and reports (if any) of background investigations for inspection by the NIGC for no less than three (3) years from the date of termination of employment.

iv. If a license is not issued to an applicant, the Gaming Commission shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

o. Granting a Gaming License.

i. If, within a thirty (30) day period after the NIGC receives a report as required under subsection 11.n. above, the NIGC notifies the Tribe that it has no objection to the issuance of a license pursuant to the license application filed for a Key Employee or Primary Management Official for whom the Gaming Commission has provided an application and investigative report, the Gaming Commission may issue the license.

ii. The Gaming Commission shall provide any additional information requested by the NIGC concerning a Key Employee or Primary Management Official who is the subject of a report as required under this subsection. An NIGC request for additional information shall suspend the thirty (30) day period established under this subsection until the NIGC receives the additional information.

iii. If, within the thirty (30) day period established under this subsection, the NIGC provides a statement itemizing objections to issuance of a license to a Key Employee or Primary Management Official, the Gaming Commission shall reconsider the application, taking into account such objections. The Gaming Commission retains the right to make the final determination whether to issue the license to such applicant.

p. Gaming License Suspension and Revocation.

i. If after issuance of a gaming license, the Tribe receives reliable information from the NIGC or other reliable source indicating that a Key Employee or a Primary Management Official is not eligible for employment under the eligibility criteria established in section 11 above, the Gaming Commission shall suspend the license and shall notify the licensee in writing of the license suspension and proposed revocation.

ii. The Gaming Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license.

(1) After the revocation hearing, the Gaming Commission shall determine whether to revoke or to reinstate the gaming license. For actions taken in response to information provided by the NIGC, the Gaming Commission shall notify the NIGC of its decision.

q. Facilities Licenses. Before Gaming Activities can be conducted therein, the Gaming Commission shall inspect and license each such facility in accordance with this Ordinance and any requirements under IGRA.

Section 11. Application Forms.

a. Each application form for a Key Employee or a Primary Management Official, as well as for all other license applicants, unless otherwise specifically exempted by the Gaming Commission, shall contain the notices set forth in subsections (1) and (2) below:

i. *Privacy Act Notice:*

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by an Indian Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with an Indian Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in an Indian Tribe's being unable to hire you in a Primary Management Official or Key Employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

ii. *Notice Regarding False Statements.*

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, § 1001)

b. Any existing Key Employee or Primary Management Official or other licensee subject to such requirements, unless otherwise specifically exempted by the Gaming Commission, that has not completed an application form containing the language set forth in Section 11.a.(1) and (2) above, shall be notified that they must either:

i. Complete a new application form that contains the Privacy Act Notice and the Notice Regarding False Statements; or

ii. Sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that notice, and sign a statement that contains the Notice Regarding False Statements.

Section 12. Class III Gaming; Compact.

Class III gaming on the Reservation shall be under the provisions of a compact, as applicable, or other alternative as provided under the IGRA and applicable regulations. All negotiations for such compacts shall be conducted through the Chair of the Tribal Council, and shall be finalized only upon the majority vote of the Tribal Council after consideration of the terms of such compact. In the event the Tribe approves a compact, the provisions of such compact, once approved under IGRA, shall govern over the provisions herein, to the extent the compact is inconsistent herewith.

Section 13. Interest in Management Contracts by Tribal Officials.

No elected official of the Tribe, including the Gaming Commission or any other committee or agency of the Tribe, shall have a financial interest in or management responsibility for, any management agreement entered into pursuant to IGRA, nor shall such elected official serve on the board of directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation, or ten percent (10%) or more of the beneficial interest in any partnership, trust, or other entity,

in any such corporation, partnership, trust or other entity, having a financial interest in, or management responsibility for, such contract.

Section 14. Service of Process.

The Tribe designates as its agent for the service of any official determination, order, or notice of violation in any gaming related matter, the person set forth on Exhibit A hereto, which person may be changed from time to time as the Tribal Council shall determine and notify the National Indian Gaming Commission.

Section 15. Tribal Gaming Corporation.

Nothing in this Ordinance shall prevent the Tribal Council from delegating the authority to conduct gaming to one or more tribal corporations, so long as the tribal corporation to which such authority is delegated agrees to meet all criteria and requirements established under this Ordinance.

Section 16. Entire Gaming Regulations; Prior Ordinances Repealed; Effective Date.

This Ordinance and the regulations promulgated thereunder shall constitute the entire gaming regulations of the Tribe. All prior gaming ordinances and resolutions of the Tribe are hereby repealed, and this Ordinance shall become effective upon its adoption by the Tribal Council.

Section 17. Amendments.

All provisions of this Ordinance are subject to revision, repeal, or amendment by the Tribal Council. [illegible] promulgated by the Gaming Commission under this Ordinance are subject to revision, repeal or amendment by the Gaming Commission.

Section 18. Sovereign Immunity Preserved.

Nothing in this Ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Tribe; and no manager, officer or employee of the Gaming Commission or the Tribe shall be authorized, nor shall they attempt, to waive the immunity of the Tribe.

Section 19. Construction and Severability.

This Ordinance is exempted from the rule of strict construction, and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. If any section of this Ordinance, or its application to any person or entity or circumstance, is held invalid, the remainder of the Ordinance, or the application of the provision to other persons or entities or circumstances, shall not be affected and shall remain in full force and effect.

EXHIBIT A TO ORDINANCE NO. 4

DESIGNATION OF AGENT FOR SERVICE OF PROCESS

Until changed in accordance with the above Ordinance, the Agent for Service of Process under the Indian Gaming Regulatory Act on behalf of the Pit River Indian Tribe shall be:

THERESA WOLFIN
Tribal Secretary
Pit River Indian Tribe
20258 Tamarack Avenue
Burney, California 96013
Telephone: 916 335-5421
Facsimile: 916 335-5241

CHAS L. GONZALES
VICE CHAIRMAN

THERESA WOLFIN
SECRETARY

PIT RIVER TRIBE
20258 Tamarack Avenue
P.O. Drawer 1570
Burney, CA 96013

TELEPHONE
916-335-5421
800-305-5551
FAX# 916-335-5241

NOV 9 1995

ELEVEN AUTONOMOUS BANDS

ORIGINAL

Resolution No.: 95-05-02

Date: May 26, 1995

Subject: Adopt Gaming Ordinance, Tribal Ordiance Number Four.

Whereas: The Pit River Tribe is a federally recognized tribe composed of eleven autonomous bands located in Northeastern California since time immemorial, and

Whereas: The Pit River Tribe is governed by the Pit River Tribal Council, the body duly elected under the constitution of the Pit River Tribe, adopted August 15, 1987, and approved by the assistant Secretary of Interior for Indian Affairs, December 10, 1987, and

Whereas: The Pit River Tribal Council is empowered by Article VII of the Constitution to enact all ordinances and resolutions which shall be necessary and proper for carrying into effect the Council's powers and responsibility, including and the power to negotiate and contract with federal, state, and tribal governments, private enterprise, individuals., and organizations, and

Now therefore be it resolved, that the Pit River Tribal Council is desirous of adopting Gaming Ordinance, Tribal Ordiance Number Four.

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ILLMAWI

ITSA'TAWI

KOSEALEKTE

MADESI

HAMMAWI

ORIGINAL

Page Two
Date: May 26, 1995
Resolution Number: 95-05-02

C-E-R-T-I-F-I-C-A-T-I-O-N

I, the undersigned Tribal Designee, Laurance D. Cantrell of the Pit River Tribe, do hereby certify the Pit River Tribal Council is composed of eleven autonomous bands of which 7 were present, constituting a quorum at a specially called, noticed, convened, and held meeting this 26 ~~th~~ day of MAY, 1995, and the resolution was adopted by a vote of 6 for, 0 against, and 1 abstaining, and that said resolution has not been rescinded or amended in any way.

[signature] D Cantrell Dated: 5/26/95
Laurance D. Cantrell
Tribal Designee

Attest: Theresa M Wolfin Dated: May 26 1995
Secretary, Theresa Wolfin

Council Member Signatures:

Kenneth D. Carmony Date 5-26-95

[illegible] Date 5-26-95

Anna Barnes Date 5/26/95

Wally Preston Date 5-26-95

Wally Bibbins Date 5-26-95

Nathaniel Dowd Councilman Astaphanwi Date 5-26-95

Date

Date

Date

Date

Date

PIT RIVER INDIAN TRIBE

NOV EXHIBIT 2

MOSS, LEVY, HARTZHEIM & ALBONICO, LLP

CERTIFIED PUBLIC ACCOUNTANTS
315 SOUTH BEVERLY DRIVE, SUITE 211
BEVERLY HILLS, CALIFORNIA 90212

TELEPHONE (310) 557-9001
FAX (310) 557-2734

ROBERT M. MOSS, C.P.A. *
RONALD A. LEVY, C.P.A.*
CRAIG A. HARTZHEIM, C.P.A.*
ROBERT F. ALBONICO, C.P.A.
JANET S. RAND, C.P.A.
BRETT L. MILLER, C.P.A.

CHANISA HUTANGKURA, C.P.A.
TONI JOKSCH, C.P.A.
LINDA N. GRAHAM, C.P.A.

*DENOTES PROFESSIONAL CORPORATION

MEMBER:
AMERICAN INSTITUTE OF C.P.A.S
CALIFORNIA SOCIETY OF C.P.A.S
CALIFORNIA SOCIETY OF MUNICIPAL FINANCE OFFICERS
CALIFORNIA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS

OFFICES:
BEVERLY HILLS, CALIFORNIA
SANTA MARIA, CALIFORNIA
SACRAMENTO, CALIFORNIA
MINDEN, NEVADA

August 25, 1998

AUG 31 1998

National Indian Gaming Council
1441 L Street NW
Washington, DC 20005

RE: Audit of Pit River Casino

To Whom It May Concern:

As auditors of the Pit River Casino, we hereby request an extension of 90 days in which to submit the annual audited financial statements for the fiscal year ended April 30, 1998.

We have been on site for approximately 2 days and have informed the tribe and Casino directors that their records as they stand cannot be audited.

The Casino is in a remote location in Northern California and is having difficulty hiring and retaining qualified accountants and bookkeepers to do the work necessary in preparation for an audit.

The Casino is in the process of interviewing and hiring new finance personnel to take over and will have the records ready for audit sometime between September 30, 1998 and October 15, 1998. This will give the auditors time to do field work, obtain confirmations and prepare the report and financial statements.

Please consider the above, and grant an extension to November 26, 1998.

Sincerely,

Craig A. Hartzheim

Craig A. Hartzheim for
Moss, Levy, Hartzheim & Albonico

Review and Agreed by:

Gwen Wolfin

Gwen Wolfin
Tribal Treasurer

RECEIVED
NATIONAL INDIAN
GAMING COMMISSION
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PIT RIVER INDIAN TRIBE

NOV EXHIBIT 3

NATIONAL
INDIAN
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COMMISSION

SEP - 4 1998

Lawrence Cantrell, Chairman
Pit River Indian Tribe
P.O. Drawer 70
Burney, CA 96013
Fax (530) 335-3140

David Hawkins, Chairman
Pit River Tribal Gaming Commission
20265 Tamarack Avenue
Burney, CA 96013
Fax (530) 335-4734

Craig A. Hartzheim, C.P.A.
Moss, Levy, Hartzheim, & Albonico, LLP
315 South Beverly Drive, Suite 211
Beverly Hills, CA 90212
[illegible]

Dear Messrs. Cantrell, Hawkins, and Hartzheim:

The National Indian Gaming Commission (NIGC) has received the letter from Moss, Levy, Hartzheim & Albonico, LLP (Moss), dated August 25, 1998, which was reviewed and agreed to by the Pit River Indian Tribe Treasurer. In that letter, the NIGC is asked to grant an extension until November 26, 1998, for the Pit River Tribe to submit the Pit River Casino's annual audited financial statements for the fiscal year ended April 30, 1998. Unfortunately, we cannot grant the request.

On July 25, 1997, the NIGC issued Bulletin 97-2 that, among other things, states:

> Some tribes and gaming operations have missed the due dates for their audit reports while others have routinely requested extensions. The NIGC believes that the 120 day filing period is achievable in most situations. While the NIGC will continue to consider requests for good cause, the 120 day rule is expected to be followed.

Moss states that the Pit River Casino records cannot be audited as they stand. Further, the Tribe is having difficulty hiring and retaining qualified accountants and bookkeepers to do the work necessary in preparation for an audit.

For the fiscal year ended April 30, 1997, the Pit River Tribe did not engage Moss as the auditors until after the end of the fiscal year. Further, there were inadequacies in the records and Moss was unable to satisfy itself through alternative procedures. As a result, Moss was unable to express, and did not express, an opinion of the 1997 financial statements.

It appears that the Pit River Tribe and the Pit River Casino have not implemented the necessary steps to correct the problems surrounding the 1997 audit report; thus, the same problems exist for the 1998 audit. Lack of maintaining the proper records and staff are not acceptable reasons for granting an extension.

The April 30, 1998, audit report and management letter were due to the NIGC by August 31, 1998. Failure to submit these items by that date is a violation of law that could subject the Pit River Tribe to a civil fine of up to $25,000 per violation per day.

Should you have any questions or want to discuss this matter with us, please call either Elaine Trimble or me at (202) 632-7003.

Sincerely,

Fred W. Stuckwisch

Fred W. Stuckwisch
Director of Contracts and Audits

PIT RIVER INDIAN TRIBE

NOV EXHIBIT 4

§ 571.3 Confidentiality.

Unless confidentiality is waived, the Commission shall treat as confidential any and all information received under the Act that falls within the exemptions of 5 U.S.C. 552(b) (4) and (7); *except* that when such information indicates a violation of Federal, State, or tribal statutes, regulations, ordinances, or resolutions, the Commission shall provide such information to appropriate law enforcement officials. The confidentiality of documents submitted in a multiple-party proceeding under part 577 of this chapter is addressed in § 577.8 of this chapter.

Subpart B—Inspection of Books and Records

§ 571.5 Entry of premises.

(a) The Commission's authorized representative may enter the premises of an Indian gaming operation to inspect, examine, photocopy, and audit all papers, books, and records (including computer records) concerning:

(1) Gross revenues of class II gaming conducted on Indian lands; and

(2) Any other matters necessary to carry out the duties of the Commission under the Act and this chapter.

(b) The Commission's authorized representative shall present official identification upon entering a gaming operation for the purpose of enforcing

§ 571.6 Access to papers, books, and records.

(a) Once the Commission's authorized representative presents proper identification, a gaming operation shall provide the authorized representative with access to all papers, books, and records (including computer records) concerning class II gaming or any other matters for which the Commission requires such access to carry out its duties under the Act.

(b) If such papers, books, and records are not available at the location of the gaming operation, the gaming operation shall make them available at a time and place convenient to the Commission's authorized representative.

(c) Upon the request of the Commission's authorized representative, the gaming operation shall photocopy, or allow the Commission's authorized representative to photocopy, any papers, books, and records that are requested by the Commission's authorized representative.

§ 571.7 Maintenance and preservation of papers and records.

(a) A gaming operation shall keep permanent books of account or records, including inventory records of gaming supplies, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to the Act or this chapter.

(b) The Commission may require a gaming operation to submit statements, reports, or accountings, or keep specific records, that will enable the Commission to determine whether or not such operation:

(1) Is liable for fees payable to the Commission and in what amount; and

(2) Has properly and completely accounted for all transactions and other matters monitored by the Commission.

(c) Books or records required by this section shall be kept at all times available for inspection by the Commission's authorized representatives. They shall be retained for no less than five (5) years.

(d) A gaming operation shall maintain copies of all enforcement actions that a tribe or a state has taken against the operation, noting the final disposition of each case.

Subpart C—Subpoenas and Depositions

§ 571.8 Subpoena of witnesses.

By majority vote the Commission may authorize the Chairman to require by subpoena the attendance and testimony of witnesses relating to any matter under consideration or investigation by the Commission. Witnesses so summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

§ 571.9 Subpoena of documents and other items.

By majority vote the Commission may authorize the Chairman to require by subpoena the production of certain documents and other items that are material and relevant to facts in issue in any matter under consideration or investigation by the Commission.

§ 571.10 Geographical location.

The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing.

§ 571.11 Depositions.

(a) Any party wishing to depose a witness shall file a request with the Commission or, if a presiding official has been designated under part 577 of this chapter, to the presiding official. Such a request shall not be granted except for good cause shown. A Commissioner or a presiding official may order testimony to be taken by deposition in any proceeding or investigation pending before the Commission at any stage of such proceeding or investigation, except that Commission personnel may not be questioned by deposition for the purposes of discovery, but may be questioned by written interrogatories as authorized by the Commission or a presiding official. Commission records are not subject to discovery under this chapter. The inspection of Commission records is governed by § 571.3 of this part and the Freedom of Information Act, 5 U.S.C. 552. Depositions under this section may be taken before any person designated by the Commission or a presiding official, and who has the power to administer oaths.

(b) A party or a Commissioner (or a person designated by a Commissioner under paragraph (a) of this section) proposing to take a deposition under this section shall give reasonable notice to the Commission and the parties, if any, of the taking of a deposition. Notice shall include the name of the witness and the time and place of the deposition.

(c) Every person deposed under this part shall be notified of his or her right to be represented by counsel during the deposition, and shall be required to swear or affirm to testify to the whole truth. Testimony shall be reduced to writing and subscribed by the deponent. Depositions shall be filed promptly with the Commission or, if a presiding official has been designated, with the presiding official.

(d) Witnesses whose depositions are taken as authorized in this section, and the persons taking the same, shall be severally entitled to the same fees as are paid for like services in the courts of the United States.

Subpart D—Audits

§ 571.12 Audit standards.

A tribe shall engage an independent certified public accountant to provide an annual audit of the financial statements of each gaming operation on Indian lands. Such financial statements shall be prepared in accordance with generally accepted accounting principles and the audit(s) shall be conducted in accordance with generally accepted auditing standards. Audit(s) of the gaming operation required under this section may be conducted in conjunction with any other independent audit of the tribe, provided that the requirements of this chapter are met.

§ 571.13 Copies of audit reports.

A tribe shall submit to the Commission a copy of the report(s) and management letter(s) setting forth the results of each annual audit within 120 days after the end of each fiscal year of the gaming operation.

§ 571.14 Relationship of audited financial statements to fee assessment reports.

A tribe shall reconcile its quarterly fee assessment reports, submitted under 25 CFR part 514, with its audited financial statements and make available such reconciliation upon request by the Commission's authorized representative.

PART 573—ENFORCEMENT

Sec.
573.1 Scope.
573.3 Notice of violation.
573.6 Order of temporary closure.

Authority: 25 U.S.C. 2705(a)(1), 2706, 2713, 2715.

§ 573.1 Scope.

This part sets forth general rules governing the Commission's enforcement of the Act, this chapter, and tribal ordinances and resolutions approved by the Chairman under part 522 or 523 of this chapter. Civil fines in connection with notice of violation issued under this part are addressed in part 575 of this chapter.

[illegible]

(a) The Chairman may issue a notice of violation to any person for violations of any provision of the Act or this chapter, or of any tribal ordinance or resolution approved by the Chairman under part 522 or 523 of this chapter.

(d) A notice of violation shall contain:

(1) A citation to the federal or tribal requirement that has been or is being violated;

(2) A description of the circumstances surrounding the violation, set forth in common and concise language;

(3) Measures required to correct the violation;

(4) A reasonable time for correction, if the respondent cannot take measures to correct the violation immediately; and

(5) Notice of rights of appeal.

§ 573.6 Order of temporary closure.

(a) *When an order of temporary closure may issue.* Simultaneously with or subsequently to the issuance of a notice of violation under § 573.3 of this part, the Chairman may issue an order of temporary closure of all or part of an Indian gaming operation if one or more of the following substantial violations are present:

(1) The respondent fails to correct violations within:

(i) The time permitted in a notice of violation; or

(ii) A reasonable time after a tribe provides notice of a violation.

(2) A gaming operation fails to pay the annual fee required by 25 CFR part 514.

(3) A gaming operation operates for business without a tribal ordinance or resolution that the Chairman has approved under part 522 or 523 of this chapter.

(4) A gaming operation operates for business without a license from a tribe, in violation of part 558 of this chapter.

(5) A gaming operation operates for business without either background investigations having been completed for, or tribal licenses granted to, all key employees and primary management officials, as provided in § 558.3(b) of this chapter.

(6) There is clear and convincing evidence that a gaming operation defrauds a tribe or a customer.

(7) A management contractor operates for business without a contract that the Chairman has approved under part 533 of this chapter.

(8) Any person knowingly submits false or misleading information to the Commission or a tribe in response to any provision of the Act, this chapter, or a tribal ordinance or resolution that the Chairman has approved under part 522 or 523 of this chapter.

(9) A gaming operation refuses to allow an authorized representative of the Commission or an authorized tribal official to enter or inspect a gaming operation, in violation of § 571.5 or § 571.6 of this chapter, or of a tribal ordinance or resolution approved by the Chairman under part 522 or 523 of this chapter.

(10) A tribe fails to suspend a license upon notification by the Commission that a primary management official or key employee does not meet the standards for employment contained in § 558.2 of this chapter, in violation of § 558.5 of this chapter.

(11) A gaming operation operates class III games in the absence of a tribal-state compact that is in effect, in violation of 25 U.S.C. 2710(d).

(12) A gaming operation's facility is constructed, maintained, or operated in a manner that threatens the environment or the public health and safety, in violation of a tribal ordinance or resolution approved by the Chairman under part 522 or 523 of this chapter.

(b) *Order effective upon service.* The operator of an Indian gaming operation shall close the operation upon service of an order of temporary closure, unless the order provides otherwise.

(c) *Informal expedited review.* Within seven (7) days after service of an order of temporary closure, the respondent may request, orally or in writing, informal expedited review by the Chairman.

(1) The Chairman shall complete the expedited review provided for by this paragraph within two (2) days after his or her receipt of a timely request.

(2) The Chairman shall, within two (2) days after the expedited review provided for by this paragraph:

(i) Decide whether to continue an order of temporary closure; and

(ii) Provide the respondent with an explanation of the basis for the decision.

(3) Whether or not a respondent seeks informal expedited review under this paragraph, within thirty (30) days after the Chairman serves an order of temporary closure the respondent may appeal the order to the Commission under part 577 of this chapter. Otherwise, the order shall remain in effect unless rescinded by the Chairman for good cause.

PART 575—CIVIL FINES

Sec.
575.1 Scope.
575.3 How assessments are made.
575.4 When civil fine will be assessed.
575.5 Procedures for assessment of civil fines.
575.6 Settlement, reduction, or waiver of civil fine.
575.9 Final assessment.

Authority: 25 U.S.C. 2705(a)(1), 2706, 2713, 2715.

§ 575.1 Scope.

This part addresses the assessment of civil fines under section 2713(a) of the Act with respect to notices of violation issued under § 573.3 of this chapter.

§ 575.3 How assessments are made.

The Chairman shall review each notice of violation and order of temporary closure in accordance with § 575.4 of this part to determine whether a civil fine will be assessed, the amount of the fine, and, in the case of continuing violations, whether each daily illegal act or omission will be deemed a separate violation for purposes of the total civil fine assessed.

§ 575.4 When civil fine will be assessed.

The Chairman may assess a civil fine, not to exceed $25,000 per violation, against a tribe, management contractor, or individual operating Indian gaming for each notice of violation issued under § 573.3 of this chapter after considering the following factors:

(a) *Economic benefit of noncompliance.* The Chairman shall consider the extent to which the respondent obtained an economic benefit from the noncompliance that

gave rise to a notice of violation, as well as the likelihood of escaping detection.

(1) The Chairman may consider the documented benefits derived from the noncompliance, or may rely on reasonable assumptions regarding such benefits.

(2) If noncompliance continues for more than one day, the Chairman may treat each daily illegal act or omission as a separate violation.

(b) *Seriousness of the violation.* The Chairman may adjust the amount of a civil fine to reflect the seriousness of the violation. In doing so, the Chairman shall consider the extent to which the violation threatens the integrity of Indian gaming.

(c) *History of violations.* The Chairman may adjust a civil fine by an amount that reflects the respondent's history of violations over the preceding five (5) years.

(1) A violation cited by the Chairman shall not be considered unless the associated notice of violation is the subject of a final order of the Commission and has not been vacated; and

(2) Each violation shall be considered whether or not it led to a civil fine.

(d) *Negligence or willfulness.* The Chairman may adjust the amount of a civil fine based on the degree of fault of the respondent in causing or failing to [illegible] either through act or omission.

(e) *Good faith.* The Chairman may reduce the amount of a civil fine based on the degree of good faith of the respondent in attempting to achieve rapid compliance after notification of the violation.

§ 575.5 Procedures for assessment of civil fines.

(a) Within 15 days after service of a notice of violation, or such longer period as the Chairman may grant for good cause, the respondent may submit written information about the violation to the Chairman. The Chairman shall consider any information so submitted in determining the facts surrounding the violation and the amount of the civil fine.

(b) The Chairman shall serve a copy of the proposed assessment on the respondent within thirty (30) days after the notice of violation was issued, when practicable.

(c) The Chairman may review and reassess any civil fine if necessary to consider facts that were not reasonably available on the date of issuance of the proposed assessment.

§ 575.6 Settlement, reduction, or waiver of civil fine.

(a) *Reduction or waiver.* (1) Upon written request of a respondent received at any time prior to the filing of a notice of appeal under part 577 of this chapter, the Chairman may reduce or waive a civil fine if he or she determines that, taking into account exceptional factors present in a particular case, the fine is demonstrably unjust.

(2) All petitions for reduction or waiver shall contain:

(i) A detailed description of the violation that is the subject of the fine;

(ii) A detailed recitation of the facts that support a finding that the fine is demonstrably unjust, accompanied by underlying documentation, if any; and

(iii) A declaration, signed and dated by the respondent and his or her counsel or representative, if any, as follows: Under penalty of perjury, I declare that, to the best of my knowledge and belief, the representations made in this petition are true and correct.

(3) The Chairman shall serve the respondent with written notice of his or her determination under paragraph (a) of this section, including a statement of the grounds for the Chairman's decision.

(b) *Settlement.* At any time prior to the filing of a notice of appeal under part 577 of this chapter, the Chairman and the respondent may agree to settle an enforcement action, including the amount of the associated civil fine. In the event a settlement is reached, a settlement agreement shall be prepared and executed by the Chairman and the respondent. If a settlement agreement is executed, the respondent shall be deemed to have waived all rights to further review of the violation or civil fine in question, except as otherwise provided expressly in the settlement agreement. In the absence of a settlement of the issues under this paragraph, the respondent may contest the assessed civil fine before the Commission in accordance with part 577 of this chapter.

§ 575.9 Final assessment.

(a) If the respondent fails to request a hearing as provided in part 577 of this chapter, the proposed civil fine assessment shall become a final order of the Commission.

(b) Civil fines assessed under this part shall be paid by the person assessed and shall not be treated as an operating expense of the operation.

(c) The Commission shall transfer civil fines paid under this chapter to the U.S. Treasury.

PART 577—APPEALS BEFORE THE COMMISSION

Sec.
577.1 Scope.
577.3 Request for hearing.
577.4 Hearing deadline.
577.6 Service.
577.7 Conduct of hearing.
577.8 Request to limit disclosure of confidential information.
577.9 Consent order or settlement.
577.12 Intervention.
577.13 Transcript of hearing.
577.14 Recommended decision of presiding official.
577.15 Review by Commission.

Authority: 25 U.S.C. 2706, 2713, 2715.

§ 577.1 Scope.

(a) This part provides procedures for appeals to the Commission regarding:

(1) A violation alleged in a notice of violation;

(2) Civil fines assessed by the Chairman;

(3) Whether an order of temporary closure issued by the Chairman should be made permanent or be dissolved; and

(4) The Chairman's decision to void or modify a management contract under part 535 of this chapter subsequent to initial approval.

(b) Appeals from determinations of the Chairman under 25 U.S.C. 2710 and 2711 (regarding management contracts) and 2710 (regarding tribal gaming ordinances) are addressed in parts 539 and 524 of this chapter respectively.

§ 577.3 Request for hearing.

(a) A respondent may request a hearing to contest the matters listed in § 577.1(a)(1)–(4) by submitting a notice of appeal to the Commission within thirty (30) days after service of:

(1) A notice of violation;

(2) A proposed civil fine assessment or reassessment;

(3) An order of temporary closure; or

(4) An order voiding or modifying a management contract subsequent to initial approval.

(b) A notice of appeal shall reference the notice or order from which the appeal is taken.

(c) Within ten (10) days after filing a notice of appeal, the respondent shall file with the Commission a supplemental statement that states with particularity the relief desired and the grounds therefor and that includes, when available, supporting evidence in the form of affidavits. If the respondent wishes to present oral testimony or witnesses at the hearing, the respondent shall include a request to do so with the supplemental statement. The request to present oral testimony or witnesses shall specify the names of proposed witnesses and the general nature of their

expected testimony, and whether a closed hearing is requested and why. The respondent may waive in writing his or her right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.

§ 577.4 Hearing deadline.

(a) The Commission shall designate a presiding official who shall commence a hearing within 30 days after the Commission receives a timely notice of appeal from the respondent. At the request of the respondent, the presiding official may order the hearing to commence at a time more than 30 days after the respondent files a notice of appeal. The Commission shall transmit the administrative record of the case to the presiding official upon designation.

(b) If the subject of an appeal is whether an order of temporary closure should be made permanent or be dissolved, the hearing shall be concluded within 30 days after the Commission receives a timely notice of appeal, unless the respondent waives this requirement. Notwithstanding any other provision of this part, the presiding official shall conduct such a hearing in a manner that will enable him or her to conclude the hearing within the period required by this paragraph, while ensuring due process to all parties.

[illegible] A respondent who initiates an appeal under this part shall serve copies of the initiating documents on the Commission at the address indicated in the notice or order that is the subject of the appeal. All filings shall be made with the Commission until a presiding official is designated and the parties are so notified, after which all filings shall be made with the presiding official. Any party or other person who subsequently files any other document with the Commission or the presiding officer shall simultaneously serve copies of that document on any other parties to the proceeding, except to that extent § 577.8 of this part may govern the disclosure of confidential information contained in a filing.

(b) Copies of documents by which a proceeding is initiated shall be served on all known parties personally, by facsimile, or by registered or certified mail, return receipt requested. All subsequent documents shall be served personally, by facsimile, or by first class mail.

(c) Service of copies of all documents is complete at the time of personal service or, if service is made by mail or facsimile, upon transmittal.

(d) Whenever a representative (including an attorney) has entered an appearance for a party in a proceeding initiated under this part, service thereafter shall be made upon the representative.

(e) In computing any period of time prescribed for filing and serving a document, the first day of the period so computed shall not be included. The last day shall be included unless it is a Saturday, Sunday, or federal legal holiday, in which case the period shall run until the end of the next business day.

(f)(1) The presiding official may extend the time for filing or serving any document except a notice of appeal.

(2) A request for an extension of time must be filed within the time originally allowed for filing.

(3) For good cause the presiding official may grant an extension of time on his or her own initiative.

§ 577.7 Conduct of hearing.

(a) Once designated by the Commission, the presiding official shall set the case for hearing. The respondent may appear at the hearing personally, through counsel, or personally with counsel. The respondent shall have the right to introduce relevant written materials and to present an oral argument. At the discretion of the presiding official, a hearing under this section may include an opportunity to submit oral and documentary evidence and cross-examine witnesses.

(b) When holding a hearing under this part, the presiding official shall:

(1) Administer oaths and affirmations;

(2) Issue subpoenas authorized by the Commission;

(3) Rule on offers of proof and receive relevant evidence;

(4) Authorize exchanges of information (including depositions and interrogatories in accordance with 25 CFR part 571, subpart C) among the parties when to do so would expedite the proceeding;

(5) Regulate the course of the hearing;

(6) When appropriate, hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) At any conference held pursuant to paragraph (b)(6) of this section, require the attendance of at least one representative of each party who has authority to negotiate the resolution of issues in controversy;

(8) Dispose of procedural requests or similar matters;

(9) Recommend decisions in accordance with § 577.14 of this part; and

(10) Take other actions authorized by the Commission consistent with this part.

(c) The presiding official may order the record to be kept open for a reasonable period following the hearing (normally five days), during which time the parties may make additional submissions to the record. Thereafter, the record shall be closed and the hearing shall be deemed concluded. Within 30 days after the record closes, the presiding official shall issue a recommended decision in accordance with § 577.14 of this part.

§ 577.8 Request to limit disclosure of confidential information.

(a) If any person submitting a document in a proceeding that involves more than two parties claims that some or all of the information contained in that document is exempt from the mandatory public disclosure requirements under the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905 (disclosure of confidential information), or is otherwise exempt by law from public disclosure, the person shall:

(1) Indicate that the document in its entirety is exempt from disclosure or identify and segregate information within the document that is exempt from disclosure; and

(2) Request that the presiding official [illegible] parties to the proceeding (other than the Chairman, whose actions regarding the disclosure of confidential information are governed by § 571.3 of this chapter) except pursuant to paragraph (b) of this section, and shall serve the request upon the parties to the proceeding. The request to the presiding official shall include:

(i) A copy of the document, group of documents, or segregable portions of the documents marked "Confidential Treatment Requested"; and

(ii) A statement explaining why the information is confidential.

(b) A party to a proceeding may request that the presiding official direct a person submitting information under paragraph (a) of this section to provide that information to the party. The presiding official shall so direct if the party requesting the information agrees under oath and in writing:

(1) Not to use or disclose the information except directly in connection with the hearing; and

(2) To return all copies of the information at the conclusion of the proceeding to the person submitting the information under paragraph (a) of this section.

(c) If a person submitting documents in a proceeding under this part does not claim confidentiality under paragraph (a) of this section, the presiding official may assume that there is no objection to disclosure of the document in its entirety.

(d) If the presiding official determines that confidential treatment is not warranted with respect to all or any part of the information in question, the presiding official shall so inform all parties by telephone, if possible, and by facsimile or express mail letter directed to the parties' last known addresses. The person requesting confidential treatment then shall be given an opportunity to withdraw the document before it is considered by the presiding official, or to disclose the information voluntarily to all parties.

(e) If the presiding official determines that confidential treatment is warranted, the presiding official shall so inform all parties by facsimile or express mail directed to the parties' last known address.

(f) When a decision by a presiding official is based in whole or in part on evidence not included in the public record, the decision shall so state, specifying the nature of the evidence and the provision of law under which disclosure was denied, and the evidence so considered shall be retained under seal as part of the official record.

§ 577.11 Deferral or settlement.

(a) *General.* At any time after the commencement of a proceeding, but at least five (5) days before the date set for hearing under § 577.7 of this part, the parties jointly may move to defer the hearing for a reasonable time to permit negotiation of a settlement or an agreement containing findings and an order disposing of the whole or any part of the proceeding.

(b) *Content.* Any agreement containing consent findings and an order disposing of the whole or any part of a proceeding shall also provide:

(1) A waiver of any further procedural steps before the Commission;

(2) A waiver of any right to challenge or contest the validity of the order and decision entered into in accordance with the agreement; and

(3) That the presiding official's certification of the findings and agreement shall constitute dismissal of the appeal and final agency action.

(c) *Submission.* Before the expiration of the time granted for negotiations, the parties or their authorized representatives may:

(1) Submit to the presiding official a proposed agreement containing consent findings and an order;

(2) Notify the presiding official that the parties have reached a full settlement and have agreed to dismissal of the action, subject to compliance with the terms of the settlement; or

(3) Inform the presiding official that agreement cannot be reached.

(d) *Disposition.* In the event a settlement agreement containing consent findings and an order is submitted within the time granted, the presiding official shall certify such findings and agreement within thirty (30) days after his or her receipt of the submission. Such certification shall constitute dismissal of the appeal and final agency action.

§ 577.12 Intervention.

(a) Persons other than the respondent may be permitted to participate as parties if the presiding official finds that:

(1) The final decision could directly and adversely affect them or the class they represent;

(2) They may contribute materially to the disposition of the proceedings;

(3) Their interest is not adequately represented by existing parties; and

(4) Intervention would not unfairly prejudice existing parties or delay resolution of the proceeding.

(b) If a tribe has jurisdiction over lands on which there is a gaming operation that is the subject of a proceeding under this part, and the tribe is not already a named party, such tribe may intervene as a matter of right.

(c) A person not named as a party and who wishes to participate as a party under this section shall submit a petition to the presiding official within ten (10) days after the person knew or should have known about the proceeding. The petition shall be filed with the presiding official and served on each person who has been made a part at the time of filing. The petition shall state concisely:

(1) Petitioner's interest in the proceeding;

(2) How his or her participation as a party will contribute materially to the disposition of the proceeding;

(3) Who will appear for petitioner;

(4) The issues on which petitioner wishes to participate; and

(5) Whether petitioner wishes to present witnesses.

(d) Objections to the petition may be filed by any party within ten (10) days after service of the petition.

(e) When petitions to participate as parties are made by individuals or groups with common interests, the presiding official may request all such petitioners to designate a single representative, or he or she may recognize one or more petitioners.

(f) The presiding official shall give each petitioner, as well as the parties, written notice of the presiding official's decision on the petition. For each petition granted, the presiding official shall provide a brief statement of the basis of the decision. If the petition is denied, the presiding official shall briefly state the grounds for denial and may then treat the petition as a request for participation as amicus curiae (that is, "friend of the court").

§ 577.13 Transcript of hearing.

Hearings under this part that involve oral presentations shall be recorded verbatim and transcripts thereof shall be provided to parties upon request. Fees for transcripts shall be at the actual cost of duplication.

§ 577.14 Recommended decision of presiding official.

(a) *Recommended decision.* Within thirty (30) days after the record closes, the presiding official shall render his or her recommended decision. The recommended decision of the presiding official shall be based upon the whole record and shall include findings of fact and conclusions of law upon each material issue of fact or law presented on the record.

(b) *Filing of objections.* Within ten (10) days after the date of service of the presiding official's recommended decision, the parties may file with the Commission objections to any aspect of the decision, and the reasons therefor.

§ 577.15 Review by Commission.

The Commission shall affirm or reverse, in whole or in part, the recommended decision of the presiding official by a majority vote within thirty (30) days after the date on which the presiding official issued the decision. The Commission shall provide a notice and order to all parties stating the reasons for its action. In the absence of a majority vote by the Commission within the time provided by this section, the recommended decision of the presiding official shall be deemed affirmed except that, if the subject of the appeal is an order of temporary closure issued under § 573.6 of this chapter, the order of temporary closure shall be dissolved.

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