National Indian Gaming Commission

NOTICE OF VIOLATION

NO. 00-09

June 14, 2000

To: Delores Pigsley, Chairman
Confederated Tribes of Siletz Indians of Oregon
P.O. Box 549
Siletz, Oregon 97380

Agent for Service of Process:

Brenda Bremner, General Manager
Confederated Tribes of Siletz Indians of Oregon
P.O. Box 549
Siletz, Oregon 97380

NOTICE

1. Pursuant to the Indian Gaming Regulatory Act ("IGRA" or "Act"), and by virtue of authority vested in the Chairman of the National Indian Gaming Commission ("NIGC"), the Chairman hereby gives notice that the Confederated Tribes of Siletz Indians of Oregon ("Tribe" or "Respondent") is in violation of the Act, the Siletz Tribal Gaming Ordinance ("Ordinance"),[1] the Tribal-State Compact for Regulation of Class III Gaming between the Confederated Tribes of Siletz Indians of Oregon ("Tribal-State Compact"), and NIGC regulations.

2. Violations stem from the following circumstances:

A. Since approximately May 25, 1995, the Tribe has operated a Class II and III gaming operation called Chinook Winds at Siletz, Oregon.

B. Section 6.21 of the Ordinance authorizes Class II and Class III gaming, as defined in IGRA and the NIGC's implementing regulations. Under IGRA, Respondent is required to conduct Class III gaming only in conformance with a Tribal-State compact.

[1]On August 20, 1994, the Tribe adopted the Siletz Tribal Gaming Ordinance Number 6.20, by Resolution 94-188. The Chairman of the NIGC approved the Ordinance on December 15, 1994.

25 U.S.C. § 2710 (d)(1)(C). The Tribe and the State of Oregon entered into such a compact on November 10, 1994, with subsequent amendments.[2]

C. According to NIGC regulations, the acceptable uses for net gaming revenues are as follows:

> to fund tribal government operations or programs;
> to provide for the general welfare of the tribe and its members;
> to promote tribal economic development;
> to donate to charitable organizations; or
> to help fund operations of local government agencies.

25 C.F.R. § 522.4 (b)(2).[3] Throughout 1999, the Tribal Council awarded Complimentary Items (also known as "comps") to individual Tribal Council members and to the Tribal Council itself. Awarding Complimentary Items to Tribal Council members for personal use does not fall within the authorized uses of net revenues.

D. Section 8 of the Tribal-State Compact requires the Tribe to conduct all Class III gaming in accordance with the compact, the Tribe's gaming ordinance, and the Minimum Internal Control Standards (MICS) attached to and incorporated by reference into the compact. Under the MICS, the Tribe is required to safeguard its gaming assets by ensuring that the gaming operation has a system of internal controls that will provide for

> the segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of his or her duties.

Tribal-State Compact, Appendix A, Section I (A)(2)(b). In addition, under Section II (Accounting Standards), the Tribe has agreed to adopt procedures that will reasonably ensure that

> functions, duties, and responsibilities are appropriately segregated in accordance with sound practices by competent, qualified personnel.

Tribal-State Compact, Appendix A, Section II (C)(1)(g).

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[2]The most recent Tribal-State Compact between the Siletz Tribe and the State of Oregon was executed on September 14, 1999, and published in the Federal Register by the Assistant Secretary for Indian Affairs on November 12, 1999.

[3]See also 25 U.S.C. § 2701 (b)(2)(B) (authorized use of net gaming revenues); 25 C.F.R. § 502.16, 25 U.S.C. § 2703 (9) ("net gaming" defined); Confederated Tribes of Siletz Indians of Oregon Distribution of Net Gaming Revenues Ordinance, Section 6.80 (authorized uses of net gaming revenues); Tribal-State Compact, Section 8 (required adherence to tribal gaming ordinance, compact, IGRA, NIGC regulations, and MICS).

Throughout 1999, by granting Tribal Council members the authority to award Complimentary Items to themselves, and to award Complimentary Items to other Tribal Council members and family members, the Tribe has failed to adhere to the requirement of segregation of incompatible functions, duties and responsibilities. Granting Tribal Council members broad authority to award Complimentary Items does not adequately safeguard the assets of the gaming operation.

3. The measures required to correct the past and ongoing violations are:

A. Each Tribal Council Member must repay the gaming operation for all Complimentary Items taken for personal use. The amounts each Tribal Council member owes to the gaming operation are as follows:

1. Delores Pigsley	$2,840.31
2. Gerald Ben	$2,526.74
3. Mike Darcy	$2,868.23
4. Jessie Davis	$2,802.72
5. Mary Fisher	$1,153.95
6. Jane John	$1,043.46
7. Rosemary Landis	$1,713.39
8. JoAnn Miller	$2,141.69
9. Bonnie Peterson	$1,107.39

B. The Tribe must repay the gaming operation, from Tribal Council funds, the sum of $120,366.41 for Complimentary Items issued to "Tribal Council."

C. The Tribe must adopt regulations establishing procedures for an accounting system and internal controls which ensure compliance with the required use of net gaming revenues, all to be submitted to the NIGC for review and approval within 30 days of receipt of this Notice of Violation.

D. The Tribe must adopt regulations governing "Comp" procedures and submit such regulations to the NIGC for its review and approval within 30 days of receipt of this Notice of Violation. These procedures shall include a requirement that the name, date, amount, and authorized signature shall appear on every authorization for issuance of a Complimentary Item, and shall include a sufficient segregation of functions to safeguard the assets of the Tribe.

4. The Respondent must immediately take appropriate action to comply with IGRA and notify the NIGC of the measures taken to correct this violation within 30 days of the issuance of this Notice of Violation. The required information must be submitted to the Chairman, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005.

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

6. Appeal.

A. The Respondent may appeal the allegations contained in this Notice of Violation to the NIGC within 30 days after service of this Notice of Violation. 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 Notice of Violation. 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.

B. 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 on the basis of the written submissions.

C. A copy of the regulations cited in this Notice of Violation is attached for your information. For additional information or other communication with the Commission regarding this matter, contact Deputy General Counsel Penny J. Coleman at (202) 632-7003, or by facsimile at (202) 632-7066.

Dated this 15th day of June, 2000.

Montie R. Deer

Montie R. Deer, Chairman
National Indian Gaming Commission