NATIONAL
INDIAN
GAMING
COMMISSION

MAY 30 1997

Honorable Jeff Parker
President, Bay Mills Indian Community
Route 1, Box 313
Brimley, Michigan 49715

Dear Mr. Parker:

This letter responds to your request to review and approve the amendment to the tribal gaming ordinance amendment of the Bay Mills Indian Community (Tribe). The amendment to the ordinance was adopted by the Tribe on February 24, 1997. 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 Chair is directed to review amendments to ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chair's review and approval is limited to the requirements of the IGRA and the NIGC regulations.

Thank you for submitting the amendment to the tribal gaming ordinance of the Bay Mills Indian Community. The NIGC staff and I continue to look forward to working with you and the Tribe in implementing the IGRA.

Sincerely,

Ada E. Deer

Ada E. Deer
Acting Chair

cc: Kathryn L. Tierney, Tribal Attorney

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BAY MILLS INDIAN COMMUNITY

GAMING COMMISSION RULES

RULE 2: ***KEY EMPLOYEE/ PRIMARY MANAGEMENT OFFICIAL BACKGROUND INVESTIGATIONS***

(a) **Criminal History Checks.** The Bay Mills Indian Community Tribal Law Enforcement Department shall take fingerprints of all persons seeking employment from an Operator as a key employee (as such is defined in Sec. 2.30 of the Tribe's Gaming Ordinance) and any person who desires to serve as a primary management official (defined in Sec. 2.40 of the Ordinance). The fingerprints shall be immediately transmitted to the National Indian Gaming Commission (NIGC) for the purpose of obtaining the person's criminal history record information (CHRI). Dissemination of information resulting from the CHRI shall be subject to the Memorandum of Understanding with NIGC and the Bay Mills Indian Community.

(b) **Criminal History Prohibiting License Issuance.** No license shall be issued by the Commission for any person who:

(1) Has been convicted of or entered a plea of guilty to a gambling-related offense, fraud, or misrepresentation; or

(2) Has been convicted of or entered a plea of guilty or no contest to any other offense (not specified in subsec. (1), above) within the immediately preceding five (5) years, unless such person:

(i) has been pardoned by the Governor of the State in which the conviction occurred, or

(ii) is a member of the Bay Mills Indian Community and has been determined by the Commission to be a person who is not likely to again engage in any offensive or criminal course of conduct and that the public good does not require that the license be denied.

(3) As used in subsec. (1), "fraud or misrepresentation" means a criminal offense committed in Michigan or any other jurisdiction which involves theft, fraud or misrepresentation, which is a felony, or would be a felony if committed in Michigan, and which was committed by an adult or prosecute as an adult offense, and which has not been effectively

removed from the person's criminal record by executive pardon, state court order, or operation of law.

(4) As used in subsec. (2), above, "offense" means a crime under the provisions of the Michigan Penal Code, Act. No. 328 of the Public Acts of 1931, as amended, being MCL 750.1 to 750.568, or the controlled substance provisions of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being MCL 333.7101 to 333.7545, or, if committed in another jurisdiction, would be a violation of any of the above provisions of Michigan law, and which was committed by an adult or prosecuted as an adult offense, and which has not been effectively removed from the person's criminal record by executive pardon, state court order, or operation of law.

(c) **Background Investigation.** Upon receipt of an application for employment by a licensed Operator as a key employee or primary management official, the Operator shall immediately transmit the completed application to the Commission for its review. The employment application form shall be the basis for conducting the background investigation required by federal regulation and tribal law, and shall include all information specified in Sec. 6.2 of the Tribe's Gaming Ordinance. Utilization of the employment form(s) approved by the Commission is presumed to comply with this Rule and the Tribal Ordinance.

The Commission shall review the prospective employee's employment history and personal background to determine if the person is eligible for a license. In making such determination, the Commission shall:

(1) verify the accuracy and completeness of the person's employment history and personal background, through the contact by appropriate means of present and former employers, business partners, customers, and such other persons or entities as are appropriate;

(2) ascertain the existence of any adverse action by any gaming licensing authority on a license previously or currently issued to the person;

(3) prepare a written report concerning the results of the background investigation, which includes:

(i) steps taken in conducting the background investigation;

(ii) results obtained;

(iii) conclusions reached; and

(iv) basis for those conclusions.

(d) **Status of Person Pending Results of Background and CHRI Investigation; Temporary License.** The Commission may, but is not required, to issue a temporary license under Sec. 6 of the Tribe's Gaming Ordinance, subject to the completion of the Criminal History Record Information and the background investigations. No temporary license shall be issued for a period of more than 90 days.

(e) **Transmittal of Background Report to NIGC.** Prior to issuing a license to any prospective key employee or primary management official, the Commission shall transmit to NIGC its background investigation report. A license under sec. 6.4 shall be issued by the Commission to such person 14 days after receipt by NIGC of the report, unless the Commission is advised by NIGC that said person should not be licensed. In such event, the Commission shall review the status of the license and determine whether the best interests of the Tribe and the public will be served and protected if such person is licensed.

(f) **Investigation of Persons Doing Gaming-Related Business with the Bay Mills Indian Community.** The procedures of this Rule shall apply to any person, partnership, association, and stock and non-stock corporation with whom the Tribe is, or is contemplating, engaging in:

(1) purchasing gaming equipment or supplies;

(2) management of gaming activities for the Tribe or an Operator licensed by the Commission; or

(3) provision of funds to the Tribe for its conduct of gaming-related activities.

CERTIFICATION

This is to certify that the above Gaming Commission Rule #2, as amended through addition of (b)(3) and (4), has been reviewed and approved at a meeting of the Bay Mills Executive Council held at Bay Mills, Michigan, on the 24th day of February, 1997, with a vote of 4 for 0 opposed and 1 abstaining and 0 absent. The Tribal Chairman must abstain except in the event of a tie.

Andrew A. LeBlanc Sr.

ANDREW A. LeBLANC, SR.
Secretary