SEP 3 2002

Kathryn L. Tierney
Tribal Attorney
Bay Mills Indian Community
12140 West Lakeshore Drive
Brimley, Michigan 49715

RE: Amendment to the Gaming Ordinance of the Bay Mills Indian Community

Dear Ms. Tierney:

This letter responds to your request to the National Indian Gaming Commission (NIGC) for the review and approval of the amendment to the Bay Mills Indian Community (Community) tribal gaming ordinance submitted on July 9, 2002. The amendment to the ordinance was adopted by the Band by Resolution No. 02-7-8 on July 8, 2002. This letter constitutes approval of your submission under the Indian Gaming Regulatory Act (IGRA). Such approval does not constitute approval of specific games. It is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe exercises jurisdiction.

Thank you for submitting the amendment to the tribal gaming ordinance of the Bay Mills Indian Community for review and approval. The NIGC staff and I look forward to working with you and the Community in implementing the IGRA. If you have questions or require further assistance, please contact Ms. Frances Fragua at 202/632-7003.

Sincerely yours,

Montie R. Deer
Chairman

cc: Anne E. Bolton, BIA Field Representative

Bay Mills Indian Community
12140 West Lakeshore Drive
Brimley, Michigan 49715
(906) 248-3241 Fax-(906) 248-3283

RESOLUTION

JUL 12 2002

Resolution No. 02-7-8
Amendment to Gaming Ordinance

WHEREAS: The Bay Mills Indian Community is a federally recognized Indian tribe with a Constitution enacted pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. sec. 461, *et seq.*, and

WHEREAS: The Tribe regulates gaming on its Reservation under a compact with the State of Michigan and under its Gaming Ordinance, and

WHEREAS: An amendment to the Gaming Ordinance is determined appropriate to eliminate employment suspension of indeterminate length for initiation of criminal proceedings, which: imposes burdens on the Tribe as an employer, including contingent liability for employee compensation if a suspended employee is found not guilty; imposes burdens on the Tribe's gaming employees, including financial penalties without redress through lost income pending the outcome of criminal court proceedings.

NOW, THEREFORE BE IT RESOLVED, that the Executive Council of the Bay Mills Indian Community hereby adopts the following amendment to the Gaming Ordinance, with deletions struck out and additions in italics:

7.32 **Employee Misconduct.** Each operator may ~~shall~~ immediately suspend without pay any employee who is charged with an offense described in subsection 10.2(BB) or any offense related to the sale, possession, manufacture and/or transport of illegal drugs. If a suspension is made on these grounds, the operator shall also immediately notify the Tribal Commission in writing of the name of the person and the pending charge and advise the Tribal Commission of the outcome of the case. If the employee is convicted or pleads nolo contendere to the charge, his or her employment shall be terminated. An employee terminated under this section for a drug-related conviction may be rehired, provided that such person is eligible for a gaming license, and provided further that such person passes a pre-employment drug screen test, and

furnishes a substance abuse assessment by a licensed substance abuse program, and demonstrates compliance with that program's rehabilitation/ counseling plan.

APPROVED:

L. John Lufkins, President
Bay Mills Indian Community
Executive Council

ATTEST:

Terry E. Carrick, Secretary
Bay Mills Indian Community
Executive Council

CERTIFICATION

I, the undersigned, as Secretary of the Bay Mills Indian Community Executive Council, do hereby certify that the above resolution was adopted and approved at a meeting of the Bay Mills Indian Community Executive Council held at Bay Mills, Michigan, on the 8th day of July, 2002, with a vote of 4 for, 0 opposed, 0 absent, and 1 abstaining. As per provisions of the Bay Mills Constitution, the Tribal President must abstain except in the event of a tie.

Terry E. Carrick, Secretary
Bay Mills Indian Community
Executive Council

7.21 **Display of Gaming License.** Each operator shall prominently display at each gaming site a current, valid tribal gaming licence.

7.22 **Maintenance of Premises.** Each operator shall, at all times, maintain an orderly, clean, and neat gaming establishment, both inside and out.

7.23 **Facility Security.** Each operator shall provide adequate security to protect the public before, during and after any gaming activity.

7.24 **Cooperation with Law Enforcement.** Each operator shall cooperate at all times with law enforcement personnel.

7.25 **Record Inspection.** Each operator shall make its premises and books and records available for inspection during normal business hours by the Tribal Commission or their designee, and by authorized representatives of the National Indian Gaming Commission.

7.26 **Gaming Occasion Restrictions.** No gaming shall be conducted on special days of observance designated by the Tribal Council.

7.27 **Discrimination Prohibited.** No operator may discriminate on the basis of sex, race, color, or creed in the conduct of any licensed gaming activity. Employment preference for tribal members and other Native Americans shall not constitute discrimination by the operator.

7.28 **Financial Record Review.** Each operator shall keep accurate books and records of all moneys received and paid out and provide authorized representatives of the National Indian Gaming Commission and the Tribal Commission or its designee with copies of or access to the same upon request.

7.29 **Use of Net Proceeds.** All net proceeds of any gaming activity shall be used only in a manner prescribed by this Ordinance.

7.30 **Reporting Requirement Compliance.** Every operator shall comply with all applicable tribal and federal revenue reporting laws.

7.31 **Tribal Law Violation.** It shall be a violation of the Tribe's Criminal Code to violate any provision of this Ordinance, any regulation of the Tribal Commission, or any order of the Tribal Court.

7.32 **Employee Misconduct.** Each operator may immediately suspend without pay any employee who is charged with an

offense described in subsection 10.2(BB) or any offense related to the sale, possession, manufacture and/or transport of illegal drugs. If a suspension is made on these grounds, the operator shall also immediately notify the Tribal Commission in writing of the name of the person and the pending charge and advise the Tribal Commission of the outcome of the case. If the employee is convicted or pleads nolo contendere to the charge, his or her employment shall be terminated. An employee terminated under this section for a drug-related conviction may be rehired, provided that such person is eligible for a gaming license, and provided further that such person passes a pre-employment drug screen test, and furnishes a substance abuse assessment by a licensed substance abuse program, and demonstrates compliance with that program's rehabilitation/ counseling plan.

Section 8. Gross Proceeds Tax.

8.1 **Rate.** There is hereby levied upon and there shall be collected from all enterprises an annual tax for the purpose of funding the Tribal Gaming Commission equal to one (1) per cent of the adjusted gross proceeds thereof, as that term is defined in subsection 2.1 of this Ordinance. The tax levied by this section shall be a personal obligation of the taxpayer.

8.2 **Separate Accounting Practices.** Any enterprise which obtains revenue from sources other than activities directly related to gaming, such as the sale of food and beverages, shall keep books to show separately the transactions used to determine the tax levied in this section.

8.3 **Tax Due Date; Accrual, Return and Signature.**

(A) Duty of Enterprise. The enterprise shall, on or before the fifteenth (15th) day of each month, make out a return for the preceding month on a form prescribed by the Tribe, showing the entire amount of adjusted gross proceeds of his gaming activities, and the amount of tax for which it is liable, and shall transmit the return signed by the Primary Management Official, together with payment of the amount of tax owed, on or before the fifteenth day of the month. If the return is prepared by other than said Manager, the return shall so state, and shall give the name and address of the person preparing the return, together with his signature and the name of his employer, if any.