NATIONAL
INDIAN
GAMING
COMMISSION

Ronald D. Escobar
Tribal Vice Chairman
Chemehuevi Indian Tribe
P.O. Box 1976
Chemehuevi Valley, California 92363

Dear Chairman Escobar:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on October 24, 1993, for the Chemehuevi Indian Tribe (the 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 gaming only 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 Chemehuevi Indian 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,

Anthony J. Hope

Anthony J. Hope
Chairman

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*Chemehuevi Indian Tribe*

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**CHEM. R. 93-08-28**

**A resolution adopting Ordinance No. 93-A, the Chemehuevi Indian Tribe's Gaming Ordinance, which authorizes and provides for the regulation of Class II and Class III gaming on the Chemehuevi Indian Reservation.**

**WHEREAS,** the Chemehuevi Indian Tribe is an American Indian Tribe organized pursuant to the Indian Reorganization Act of June 18, 1934 and is recognized by the United States Government through the Secretary of the Interior, with the Chemehuevi Tribal Council as its governing body; and

**WHEREAS,** at the Chemehuevi Indian Tribe's annual general membership meeting held in April 1993, at which a quorum was present, a majority of the Tribe's members voted to direct the Chemehuevi Tribal Council to investigate the feasibility of establishing a Tribal gaming enterprise to engage in Class II and Class III gaming on the Chemehuevi Indian Reservation; and

**WHEREAS,** pursuant to said vote of the general membership, the Chemehuevi Tribal Council has appointed a Gaming Committee for the purpose of implementing the general membership's directive to investigate the feasibility of establishing a Tribal gaming enterprise on the Chemehuevi Indian Reservation consistent with all requirements and procedures of the Chemehuevi Indian Tribe and all other applicable laws and regulations; and

**WHEREAS,** the Chemehuevi Indian Tribe's Gaming Committee has presented to the Chemehuevi Tribal Council a proposed Tribal Gaming Ordinance authorizing and providing for the regulation of Class II and Class III gaming on the Chemehuevi Indian Reservation, and other proposed policies, procedures and agreements to be submitted to the National Indian Gaming Commission in connection with a request for approval of said Gaming Ordinance;

APPROVED

RECEIVED 10/22/93 N16

# CHEMEHUEVI INDIAN TRIBE

## GAMING ORDINANCE

### I. Purpose

The Chemehuevi Indian Tribe, as the beneficial owner of the Chemehuevi Indian Reservation, and acting through its Tribal Council in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety and welfare of the Chemehuevi Indian Reservation and the members of the Tribe, hereby ordains and establishes this Ordinance for the purpose of authorizing and comprehensively and preemptively regulating the terms and conditions under which Class II and Class III gaming may be conducted within the boundaries of the Chemehuevi Indian Reservation.

### II. Gaming Authorized

A. Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 27039(7) (A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. § 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized.

B. Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(8) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission ("NIGC") at 25 C.F.R. § 502.4 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State Compact that has been approved by the Secretary of the Interior and is in effect, or otherwise has been authorized by the Secretary of the Interior or federal law.

### III. Ownership of Gaming Facilities and/or Enterprises

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming facilities and/or enterprise(s) authorized by this ordinance.

### IV. Use of Gaming Revenue

A. Except as specifically authorized pursuant to Subsection B of this Section, net revenues from Class II and Class III gaming on the Chemehuevi Reservation shall be used only for the following purposes:

1) to fund Tribal government operations and programs;
2) provide for the general welfare of the Tribe and its

members;
3) promote Tribal economic development;
4) donate to charitable organizations; or
5) help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to Tribal members, it shall authorize such payments only in conformity with a plan submitted to and approved by the Secretary of the Interior pursuant to 25 U.S.C. § 2710(b)(3).

## V. Audit

A. The Tribe shall cause to be conducted at least annually an independent audit of all gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission, and to such other agencies as may be required by the terms and conditions of any Class III compact or other document authorizing Class III gaming on the Chemehuevi Reservation.

B. All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of $25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in Subsection A above.

## VI. Protection of the Environment and Public Health and Safety

Class II and Class III gaming facilities on the Chemehuevi Reservation shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

## VII. Licenses for Key Employees and Primary Management Officials

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any class II and/or Class III gaming enterprise operated on Indian lands within the boundaries of the Chemehuevi Indian Reservation:

### A. Definitions

For the purposes of this section, the following definitions apply:

1. Key employee means

(a) A person who performs one or more of the following functions:
(1) Bingo Caller;
(2) Counting Room Supervisor
(3) Chief of Security

(4) Custodian of gaming supplies or cash;
(5) Floor Manager
(6) Pit Boss
(7) Dealer
(8) Croupier
(9) Approver of Credit; or
(10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

(b) If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year; or

(c) If not otherwise included, the four most highly compensated persons in the gaming operation.

2. Primary management official means

(a) The person having management responsibility for a management contract;

(b) Any person who has authority:

(1) To hire and fire employees; or
(2) To set up working policy for the gaming operation; or

(c) The chief financial officer or other person who has financial management responsibility.

B. Application Forms

1. The following notice shall be placed on the application form of a key employee or a primary management official before that form is filled out by an applicant:

> 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 a 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 a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a 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.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

a. Complete a new application form that contains a Privacy Act notice; or

b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant:

> 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. (18 U.S.C. §1001).

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

a. Complete a new application form that contains a notice regarding false statements; or

b. Sign a statement that contains the notice regarding false statements.

C. <u>Background Investigations</u>

1. The Tribe shall request from each primary management official and from each key employee all of the following information:

a. Full name, other names used (oral or written), Social Security number(s), birth date, place of birth, citizenship, gender, all languages spoken or written;

b. Currently and for the previous five years: all business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1)(b) of this Subsection;

d. Current business and residence telephone numbers;

e. A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;

f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

g. The name and address of every licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten years of the date of the application, the name and address of the court involved and the date and disposition;

j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this Subsection, the criminal charge, the name and address of the court involved and the date and disposition;

k. The name and address of each licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

l. A current photograph;

m. Any other information the Tribe may deem relevant under the circumstances; and

n. Fingerprints consistent with procedures adopted by the Tribe in accordance with 25 C.F.R. §522.2(h).

2. The Tribe shall conduct an investigation sufficient to make a determination under Subsection D. below. In conducting a background investigation, the Tribe or its agent(s) shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

The Tribe shall review a applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe 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 operation shall not employ that person in a key employee or primary management official position.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

1. When a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Subsection D of this Section.

2. The Tribe shall forward the report referred to in Subsection F of this Section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.

3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in Subsection E

of this Section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

a. Steps taken in conducting the background investigation;

b. Results obtained;

c. Conclusions reached; and

d. The bases for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under Subsection D of this Section.

3. If a license is not issued to an applicant, the Tribe:

a. Shall notify the National Indian Gaming Commission; and

b. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years form the date of termination or denial of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.

2. The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall

suspend the 30-day period under Subsection G.1. of this Section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing its objection(s) to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objection(s) itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

H. License Suspension

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Subsection D above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Tribe shall decide whether to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

## VIII. Licensing of Gaming Places, Facilities and Locations

A separate license shall be required for each place, facility, or location on Indian lands where Class II and/or Class III gaming is to be conducted on the Chemehuevi Reservation.

## IX. Creation of Tribal Gaming Commission

A. There is hereby created the Chemehuevi Tribal Gaming Commission, which shall consist of three persons who would themselves qualify for licensing under this Ordinance.

B. The members of the Tribal Gaming Commission shall be appointed by the Chemehuevi Tribal Council, and shall not be removed during their terms of office except for misconduct, neglect of duties or other acts that would render such persons unqualified for licensure hereunder. An affirmative vote of at least five members of the Tribal Council, taken in an open meeting after a duly- noticed hearing at which the member charged with misconduct shall have the right to hear and present evidence concerning his/her removal, shall be required to remove a member of the

Commission. At the request of the member whose removal is at issue, the hearing may be held in executive session. The Tribal Council also may elect to receive in executive session any evidence public disclosure of which might compromise any on-going law-enforcement investigation.

C. There shall be a Chairperson of the Tribal Gaming Commission, who shall be appointed for a term of two years. The remaining members of the Commission shall be appointed for terms of two years. The Tribal Council shall determine and authorize the compensation to be paid to members of the Tribal Gaming Commission based upon a determination of time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.

D. The Tribal Gaming Commission shall be authorized and hereby is directed to promulgate, subject to review and approval by the Tribal Council, detailed and comprehensive regulations for the implementation and enforcement of this Ordinance. Said regulations shall describe and establish the rules for each specific Class II and Class III gaming activity to be authorized to be conducted on the Chemehuevi Reservation, and no form of such gaming may be conducted on the Chemehuevi Reservation without prior approval by the Tribal Gaming Commission.

E. The Tribal Gaming Commission, independent of the Tribal Council, shall have full authority to monitor compliance with this Ordinance and its Regulations, and to investigate and act to prevent any violation(s) thereof.

F. Subject to the approval of the Tribal Council and the appropriation of funds therefor, the Tribal Gaming Commission shall be authorized to employ such staff as reasonably may be required to fulfill its responsibilities under this Ordinance. Compensation of Commission employees shall be limited to that which is comparable to compensation paid to persons performing similar duties in other governmental gaming regulatory agencies.

G. Subject to the approval of the Tribal Council, the Tribal Gaming Commission hereby is authorized to establish and impose upon gaming facilities, permittees, applicants and licensees such application, permit and license fees as may be necessary to fully reimburse the Tribe for its actual costs of operating the Tribal Gaming Commission, enforcing this Ordinance and Tribal Gaming Commission regulations, processing of licensing and permit applications, and otherwise fulfilling its regulatory responsibilities under IGRA. All such fees shall be collected by the Tribal Gaming Commission and hereby are continuously appropriated solely for the purposes enumerated in this Subsection.

H. Failure to timely pay any gaming-related fee imposed by the Tribal Council or the Tribal Gaming Commission, or to comply

with any Commission regulation or order, or any other violation of this Ordinance or the terms of any Class III gaming compact authorizing and regulating gaming on the Chemehuevi Reservation, shall be grounds for suspension or revocation of any license or permit issued pursuant to this Ordinance, exclusion of any non-member of the Chemehuevi Tribe from the Chemehuevi Reservation, and imposition of such other sanctions as the Tribal Gaming Commission may deem appropriate.

I. Any person or entity subject to any sanction or penalty by the Tribal Gaming Commission shall have the right to appeal such sanction or penalty to the Tribal Council in accordance with such rules and regulations as may be promulgated by the Tribal Council for that purpose. The decision of the Tribal Council on any appeal shall be final and not otherwise reviewable.

## X. Repeal

To the extent that they are inconsistent with this ordinance, all gaming ordinances previously enacted or amended by the Chemehuevi Tribe hereby are repealed.

 **CHEM. R. 93-08-28,** a resolution adopting Chemehuevi Tribal Ordinance No. 93-A, authorizing and regulating Class II and Class III gaming on the Chemehuevi Indian Reservation.

**NOW, THEREFORE, BE IT RESOLVED** that the Chemehuevi Tribal Council hereby approves, ordains, and establishes the Class II and Class III Gaming Ordinance, No 93-A, attached hereto, as the Gaming Ordinance of the Chemehuevi Indian Tribe, under which Class II and Class III gaming is authorized and regulated on the Chemehuevi Indian Reservation.

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

The foregoing resolution was presented at a duly noticed regular meeting of the Chemehuevi Tribal Council held on the **28th** day of **August 1993,** at which a quorum was present, and was adopted by a vote of **8** FOR; **0** AGAINST; **0** ABSTAINED; and with **1** ABSENT, per motion made by **Ronald Escobar** and seconded by **Johnny Gordon.**

Matthew Leivas, Sr.

Matthew Leivas, Sr., Chairman

Irene L. Kellywood

Irene L. Kellywood, Sec'ty-Treasurer