NATIONAL
INDIAN
GAMING
COMMISSION

DEC 18 1998

Honorable Margaret Dalton
Chairperson, Jackson Rancheria Band of Miwuk Indians
P.O. Box 429
Jackson, California 95642

Dear Ms. Dalton:

This letter responds to your request to review and approve the tribal gaming ordinance, Ordinance No. 98-1, adopted on September 10, by the Jackson Rancheria of Miwuk Indians (Rancheria). 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 in the 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 Rancheria's gaming ordinance, the Rancheria 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 Jackson Rancheria of Miwuk Indians for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Montie R. Deer
Chairman

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RESOLUTION NO. 98-24

WHEREAS, the Jackson Rancheria Band of Miwuk Indians (hereinafter "the Tribe") is a federally recognized Indian Tribe; and

WHEREAS, the Tribal Council is the governing body of the Tribe; and

WHEREAS, the Tribe enacted a Class II gaming ordinance, which was approved in 1993 by the National Indian Gaming Commission to ensure its gaming operation complies with explicit requirements concerning gaming employee licensing, background checks, and related matters; and

WHEREAS, the Tribe plans to engage in Class III gaming authorized by the tribal-state compact executed with the State of California on July 13, 1998; and

WHEREAS, the National Indian Gaming Commission has promulgated regulations, which contain explicit requirements concerning gaming employee licensing, background checks, and related matters; and

WHEREAS, the Tribe wishes to ensure that its Class III gaming operations comply with these regulations; and

WHEREAS, the Tribe believes that the regulations will further enhance the Tribe's capability to ensure that its Class III and Class II gaming operations are managed honestly and efficiently; and

WHEREAS, the Tribe wishes to designate its counsel, Howard Dickstein, as its agent for service of process for official communications from the National Indian Gaming Commission;

NOW THEREFORE BE IT RESOLVED that the Tribal Council hereby amends its Class II Gaming Ordinance as attached hereto, and authorizes its Chairperson, Margaret Dalton, to execute the ordinance and submit said ordinance with all accompanying documents required to the National Indian Gaming Commission for review and approval.

CERTIFICATION

The foregoing resolution was adopted by a vote of 3 for, and 0 against and 0 abstentions, at a duly called meeting of the Tribal Council, at which a quorum was present, on this 19th day of August, 1998.

Margaret Dalton, Chairperson

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ORDINANCE NO. 98-1

AMENDED TRIBAL CLASS II AND CLASS III GAMING ORDINANCE

I. Purpose

The Tribal Council of the Jackson Rancheria Band of Miwuk Indians (hereinafter "Tribe"), empowered by the Tribe's Constitution to enact ordinances, hereby amends its Class II gaming ordinance in order to set the terms for Class III gaming activities on tribal lands as well.

II. Gaming Authorized

A. All forms of Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7)(A) ("IGRA") are hereby authorized, including but not limited to bingo, pulltabs, and non-banking card games.

B. All forms of Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(8) ("IGRA") and authorized by the tribal-state compact between the Tribe and the State of California executed on July 13, 1998 (hereinafter "tribal-state compact"), including Indian Lottery Games, are hereby authorized.

III. Ownership of Gaming

The Tribe shall maintain the sole propriety interest in and responsibility for the conduct of all Class II and Class III gaming activities authorized by this ordinance.

IV. Use of Gaming Revenue

A. Net revenues from the Tribe's share of Class II and Class III gaming activities authorized herein shall be used only for the following purposes: to fund tribal government operations and programs; provide for general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments, it shall authorize such payments only pursuant to its Plan for the Allocation of Gaming Revenue, approved by the Secretary of the Interior under §2710(b)(3) of IGRA.

V. Audit

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the Commission.

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of $25,000 annually, except for 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. Environmental Protection

The construction, maintenance and operation of Class II and Class III gaming facilities and Class II and Class III games shall be conducted in a manner which 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 tribal lands:

A. Definitions

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

1. Key employee.

(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.

(d) If not otherwise included, any other person who is designated as a key employee under the tribal-state compact.

2. Primary Management Official.

(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 for 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 management 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. (U.S. Code, title 18, section 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. Background Investigations:

1. The Tribe and/or Tribal Gaming Agency 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 5 years:

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 (i)(b) of this section;

(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 any 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 10 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 10 years of the date of the application and is not otherwise listed pursuant to paragraphs (i)(h) and (i)(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

(k) The name and address of any 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 and/or Tribal Gaming Agency deems relevant; and

(n) Fingerprints consistent with procedures adopted by a tribe according to 25 C.F.R. § 522.2(h).

2. The Tribe and/or Tribal Gaming Agency shall conduct an investigation sufficient to make a determination under subsection D below. In conducting a background investigation, the Tribe shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

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

2. The Tribe's gaming operation shall not employ in a key employee or primary management official position a person who has supplied materially false or misleading information with respect to the required information for that person's background investigation under subsection C above.

3. The Tribe's gaming operation shall not employee in a key employee position associated with Class III gaming activity any applicant who fails to meet any necessary suitability requirements under the tribal-state compact.

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

1. When a key employee or primary management official begins work, the Tribe and/or Tribal Gaming Agency shall forward to the Commission a completed application for employment and conduct the background investigation and determination referred to in subsections A, B, C and D of this section.

2. Upon completion, the Tribe and/or Tribal Gaming Agency shall forward the report referred to in subsection F of this section to the Commission within 60 days after an employee begins work or within 60 days of the Chairman's approval of this ordinance.

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

F. Report to Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe and/or Tribal Gaming Agency shall prepare and forward to the Commission an investigative report on each background investigation. An investigative report shall include all of the following:

(a) Steps taken in conducting a background investigation;

(b) Results obtained;

(c) Conclusions reached;

(d) The bases for those conclusions; and

(e) The Tribe and/or Tribal Gaming Agency shall include in its report a copy of the eligibility determination made under section D of this section.

2. If a license is not issued to an applicant:

(a) The Tribe and/or Tribal Gaming Agency shall notify the Commission; and

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

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

G. Granting a Gaming License

1. If, within a thirty (30) day period after the Commission receives a report, the Commission notifies the Tribe and/or the Tribal Gaming Agency 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 Commission, the Tribe may go forward and issue a license to such applicant.

2. The Tribe and/or the Tribal Gaming Agency shall respond to a request for additional information from the Chairman of the Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the thirty (30) day period under paragraph (G)(1) of this section until the Chairman of the Commission receives the additional information.

3. If, within the thirty (30) day period described above, the Commission provides the Tribe and/or Tribal Gaming Agency with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe and/or Tribal Gaming Agency has provided an application and investigative report to the Commission, the Tribe and/or Tribal Gaming Agency shall reconsider the application, taking into account the objections itemized by the Commission.

4. The Tribe shall ensure compliance with any other procedures regarding licensure which may be required under the tribal-state compact.

H. <u>License Suspension</u>

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

2. The Tribe and/or Tribal Gaming Agency 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 and/or Tribal Gaming Agency shall decide to revoke or to reinstate a gaming license. The Tribe and/or Tribal Gaming Agency shall notify the Commission of its decision.

4. The Tribe and/or Tribal Gaming Agency shall also suspend and revoke the license of a key employee when such person is deemed unsuitable under the tribal-state compact.

VIII. License Locations

The Tribe and/or Tribal Gaming Agency shall issue a separate license to each place, facility, or location on Indian lands where Class II and Class III gaming is conducted under this ordinance.

IX. Customer Dispute Resolution Procedure

A. With respect to Class II gaming, the general manager of the tribal gaming operation shall attempt to resolve on an informal basis any customer complaints relating to payment of prizes or services and report any such resolution to the governing body of the enterprise. If the complaint cannot be resolved at the general manager level, the customer shall be informed that he/she has the right to present his or her complaint to the governing body of the gaming enterprise, whose decision shall be final.

B. With respect to Class III gaming, customer and third party disputes shall be resolved pursuant to Article 10 and Article 11 of the tribal-state compact.

X. IGRA Compliance

The Tribe shall ensure enforcement of rules and regulations for all games played to ensure that they conform to the IGRA, including any effective tribal-state compact, and that the games are honest and fair.

XI. Amendments

The Tribal Council may amend this Ordinance in any manner deemed appropriate to protect the Tribe's best interests so long as any such amendment is no less restrictive than the original terms of this Ordinance, complies with all applicable federal law, and is consistent with the terms of any effective tribal-state compact.

XII. Repeal

All prior gaming ordinances are hereby repealed.

CERTIFICATION

The foregoing ordinance was adopted by a vote of 3 for, and 0 against and 0 abstentions, at a duly called meeting of the Tribal Council, at which a quorum was present, on this 10 day of September, 1998.

Margaret Dalton

Margaret Dalton, Chairperson

AMENDED PROCEDURE FOR BACKGROUND INVESTIGATIONS
OF KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS
OF TRIBAL GAMING FACILITY

1. Responsibility for the Investigations. The Jackson Rancheria, through its tribally appointed Tribal Gaming Agency, shall be responsible for ensuring that background investigations and suitability determinations are conducted concerning all key employees and primary management officials of its tribal gaming facility, as required by 25 C.F.R. section 522.2(b) and as defined in section 7(a) of the Tribe's Amended Class II and Class III Ordinance.

2. Conduct of the Background Investigations. The Tribe designates the Tribal Gaming Agency to conduct said background investigations by submission of fingerprints to the National Indian Gaming Commission and/or California Department of Justice.

3. Procedures for the Background Investigations. In order to provide a basis for the Tribal Gaming Agency and the Tribe to make a finding concerning the eligibility for employment in a gaming operation, said background investigations shall include:

a. Verification by written or oral communication of the information submitted by the applicant;

b. An inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations;

c. Interviews with a sufficient number of people such as former employers, personal references, and others with sufficient knowledge of said applicant;

d. Documentation setting forth the disposition of all potential problem areas and disqualifying information which is obtained;

e. The obtaining and processing of fingerprints from each applicant. The Tribe designates the Tribal Gaming Agency to obtain and the NIGC to process said fingerprinting.

4. Reports Regarding the Background Investigations. Reports regarding all background investigations shall be reviewed and approved by the Tribe's General Counsel. Said reports shall set forth the following:

a. The steps taken in conducting the background investigations;

b. The results obtained;

c. The conclusions reached; and

d. The bases for those conclusions.

5. Submission of Reports.

a. The Tribal Gaming Agency shall be responsible for submitting the reports referred to above to the National Indian Gaming Commission.

b. The Tribal Gaming Agency shall be responsible for submitting the reports referred to above to the Division of Gambling Control in the California Department of Justice when the tribal-state compact between the Tribe and the State of California, executed on July 13, 1998, is approved by the Secretary and published in the Federal Register.