



May 28, 2003

Mr. Gary E. Kovall  
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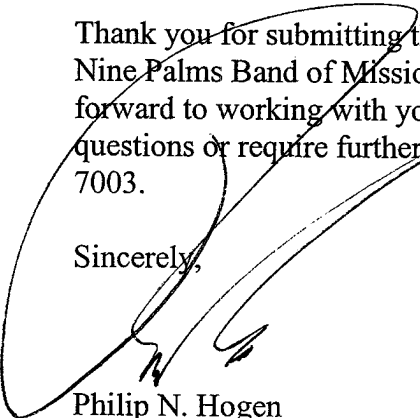
RE: Request for approval of the Amendment to Twenty-Nine Palms Band of Mission Indians Gaming Ordinance

Dear Mr. Kovall:

This letter is in response to your request to the National Indian Gaming Commission (NIGC) for the review and approval of the amendment to the Twenty-Nine Palms Band of Mission Indians (Band) tribal gaming ordinance submitted on May 9, 2003, and adopted by Resolution of the General Council of the Twenty-Nine Palms of Mission Indians, Amendment to the Gaming Ordinance, Resolution No. 050203A. The amendment requires the Band to employ outside independent commissioners for the Twenty-Nine Palms Gaming Commission. 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 Band exercises jurisdiction.

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

Sincerely,



Philip N. Hogen  
Chairman

**RESOLUTION OF THE GENERAL COUNCIL**  
**OF**  
**THE TWENTY-NINE PALMS BAND OF MISSION INDIANS**  
**AMENDMENT TO THE GAMING ORDINANCE**

**RESOLUTION NO. 050203A**

**RECITALS**

**WHEREAS**, the Twenty-Nine Palms Band of Mission Indians (“Tribe”) is a federally-recognized Indian tribe invested with powers of sovereign self-government;

**WHEREAS**, operation of class II and class III games of chance by the Tribe upon its reservation lands is a valid and legal means of promoting tribal economic development, economic self-sufficiency and the general health and welfare of the tribal members;

**WHEREAS**, that under the principles established by the United States Supreme Court in California v. Cabazon Band of Mission Indians 480 U.S. 202 (1987), Indian tribes have the right to offer and regulate gaming activity on Indian lands;

**WHEREAS**, the United States Congress, in response to the Cabazon decision, enacted Public Law 100- 497 (25 U.S.C. § 2701 *et seq.*), commonly known as the Indian Gaming Regulatory Act (“IGRA”) authorizing certain types of class II and class III gaming activities by federally-recognized Indian tribes on lands within the jurisdiction of the Tribe;

**WHEREAS**, that the Tribe has entered into a class III Gaming Compact with the State of California (“Compact”) which Compact has been duly authorized by the United States Department of the Interior and which authorizes the Tribe to engage in class III gaming activities pursuant to federal law on its reservation lands in accordance with the provisions of the Compact and IGRA;

**WHEREAS**, the tribal regulation of gaming activity on its reservation lands is vital to the protection of the lands and the interests of the Tribe and its members;

**WHEREAS**, the Tribe duly enacted a tribal gaming activity ordinance to enable it to regulate gaming activities on its lands in 1994, which ordinance was duly approved by the National Indian Gaming Commission as required by IGRA, and which ordinance established a tribal gaming commission known as the “Twenty-Nine Palms Gaming Commission”

(“Commission”);

**WHEREAS**, the General Council of the Tribe is the duly-authorized governing body of the Tribe and is empowered by the articles of association of the Tribe and tribal law to enact this amendment to its approved tribal gaming activity ordinance, and

**WHEREAS**, to best promote and assure the continued integrity of the gaming activities upon its reservation lands as required by IGRA and the Compact, and to ensure a minimum of potential interference between the Tribe and the Commission, the Tribe takes the actions described below to amend the constitution of the membership for its Commission, to amend requirements for individual gaming commissioners, and to amend and clarify the qualifications of commissioners and their responsibilities.

**ACCORDINGLY**, the Tribe hereby adopts the following amendment to its tribal gaming ordinance and authorizes the tribal Chairman or his designee to submit such amendment to the National Indian Gaming Commission for review:

#### **Re-Establishment and Constitution Of Commission**

The purpose of this Chapter is to establish a formal Twenty-Nine Palms Gaming Commission, to define the role of the Tribal Gaming Commissioners, and to authorize the Commission to regulate Tribal gaming in accordance with the Indian Gaming and Regulatory Act (IGRA) and policies and procedures of the National Indian Gaming Commission (NIGC) and the Tribal-State Class III Gaming Compact between the Tribe and the State of California, as well as addressing state and local concerns, establishing powers and duties of the Commissioners, and the ability of Tribal Gaming Commissioners to function as an independent, regulatory oversight entity, with appropriate resources committed, so that the Commission is able to perform an independent regulatory function of all gaming operations within the jurisdiction of the reservation property of the Twenty-Nine Palms Band of Mission Indians.

Accordingly, there is hereby authorized and created the Twenty-Nine Palms Band of Mission Indians Tribal Gaming Commission (hereinafter “Tribal Commission” or Tribal Gaming Agency as defined in Section 2.20 of the Compact). The Tribal Commission shall consist of no less than three (3) nor more than five (5) members, designated as described below.

The Tribe, in its sole discretion, and for the purpose of providing a mechanism for communication between the Tribe and the Commission, may designate an additional “ex officio” non-voting member of the Commission with such ex officio member being an enrolled member of the Tribe and a duly authorized member of the General Council. Such “ex officio” member duties shall be to participate at Commission meetings, represent the Tribe in external inter-tribal gaming regulatory matters and serve as a liaison between the General Council and the Commission.

All Commission members shall devote such time and attention to their duties as is necessary to completely fulfill their responsibilities. No Commissioner shall serve on a full-time basis. All members shall be appointed by the General Council which shall also set their terms of compensation which, as of the date of adoption of this amendment, shall be a “per diem” stipend in the amount of \$500 per day plus reimbursement for reasonable expenses related to attending Commission meetings such as lodging, transportation and food. The Tribe may, in its sole discretion, also authorize the per diem payment and expense reimbursement to any Commissioner who, as requested by the Tribe, represents the Tribe in his or her official capacity at meetings with federal and/or state and/or inter-tribal gaming regulatory functions. Prior to appointment, the Tribe shall conduct an investigation of the backgrounds and personal histories of candidates for positions on the Tribal Commission in order to insure that no person may serve on the Tribal Commission unless they meet the licensing standards otherwise applicable to applicants for a Tribal gaming license. Vacancies shall be filled, on an interim or permanent basis, by appointment of the General Council. No member of the Tribal Commission may:

Be employed in the operation of Class II or III gaming.

Participate in any gaming activity offered by the Tribe in its gaming facilities.

Solicit or accept employment from any person or entity licensed by the Tribal Commission either during a member’s term or for a period of one (1) year

thereafter, provided, however, that this restriction shall not apply to persons or entities licensed to provide non-gaming goods or services.

During the member's term, own any securities of, or any ownership interest whatsoever in, any entity licensed by the Tribal Commission, provided, however, that this restriction shall not apply to publicly held corporations if the ownership therein is less than 5%.

### **Qualifications and Duties**

Notwithstanding the above general description of the qualifications for Commissioners, The Twenty-Nine Palms Gaming Commission shall consist of three voting members. The Commissioners shall be part-time personnel, consisting of professional or retired members of the community at large, nominated and confirmed by the Twenty-Nine Palms Band of Mission Indians Tribal Council. The Commissioners are to be completely independent of the Twenty-Nine Palms Band of Mission Indians, the Tribal Administration, and the Trump 29 Casino Operations management. To insure the integrity of the gaming operation as well as insulate the Twenty-Nine Palms Band of Mission Indians from the appearance of any conflict of interest, or the appearance of impropriety of any kind with the Commission function, no employee of the Twenty-Nine Palms Band of Mission Indians, nor, except for the "ex officio" capacity described above, no member of the General Council will be permitted to serve as a Twenty-Nine Palms Gaming Commissioner.

The Tribal Commission shall have primary responsibility for the on-site regulation, control and security of the Class II and, if approved in the future, Class III gaming facilities and operations. The responsibilities of the Tribal Commission shall include:

- The physical safety of patrons in the gaming facilities and operation.
  
- The physical safety of personnel employed by the gaming facilities and operation.
  
- The physical safeguarding of assets transported to and from the gaming facilities and cashier's cage department.
  
- Protecting the gaming facilities and operation from illegal activity.
  
- Identifying all people and entities that may be involved in illegal activity for the purpose of notifying the State and when appropriate, the federal law enforcement authorities.
  
- The recording of all unusual occurrences within the gaming facilities and operation. Without regard to significance or injury, each occurrence shall be assigned a sequential number and, at a minimum, the following information shall be recorded in indelible ink in a bound notebook from which pages cannot be removed and each side of each page is sequentially numbered:

the assigned number;

the date;

the time;

the nature of the incident;

the person or entities involved in the incident;

the security or Tribal Gaming Commission employees assigned.

The Tribal Commission shall employ duly qualified Inspectors who shall be Independent of the gaming premises and operation as well as the management company, and shall be

supervised by and be accountable to the Tribal Commission. These Inspectors shall provide oversight to the services of any management company and any other service entities. These Inspectors shall report to the Tribal Commission regarding the failure by the Tribal gaming premises or operation to comply with any provisions of this Ordinance or any future Compact, or with any applicable laws, ordinances, or regulations. Inspectors shall receive consumer complaints within the gaming premises and operation, and shall assist in seeking voluntary resolution of such complaints. The Tribal Commission shall investigate any report of a failure to comply with any provisions of this Ordinance or any future Compact, or with any other applicable laws, ordinances, or regulations. The Tribal Commission may direct the terms and conditions of compliance to the Tribal gaming premises and operation. As a condition of employment, Inspectors shall be required to satisfy the standards applicable to a Tribal license. The terms of compensation of the Inspectors shall be established by the Tribal Commission.

The Tribal Commission shall be present in the gaming premises and operation during all hours of operations through a Commission Inspector, and shall have immediate access to all areas of the gaming premises and operation for the purpose of ensuring compliance with the provisions of this Ordinance and any future Compact, as well as any other applicable laws, ordinances or regulations,. Any violation of the aforementioned Ordinance, future Compact, or other applicable law, ordinance or regulation by the Tribal gaming premises or operation, gaming employee, or any other person, shall be reported immediately to the Tribal Commission.

The Tribal Commission shall investigate any reported violation of this Ordinance or any future Compact. And shall require the Tribal gaming operation to correct the violation upon such terms and conditions as directed by the Tribal Commission. The Tribal Commission is empowered to impose fines and any other sanctions against licensee, employee, or any other person or entity directly or indirectly involved in or benefitting from the gaming premises or operation. The procedures for the imposition of such fines and sanctions shall be established by

the Tribal Commission.

Upon completion, the Tribal Commission shall maintain a file containing copies of all investigation reports and final dispositions.

The Tribal Commission shall conduct all licensing duties imposed upon the Tribe pursuant to the provisions of this Ordinance. In pursuance of such responsibilities, the Tribal Commission may retain qualified personnel to conduct the required background investigations consistent with this Ordinance and the terms of any applicable Tribal-State Compact. After the completion of such background investigations, the Tribal Commission shall evaluate the licensee's eligibility as key employees and primary management officials according to the requirements at least as stringent as those in the regulations of the National Indian Gaming Commission at 25 C.F.R. Parts 556 and 558.

In addition, the Commissioners shall, among other things:

1. Cause to be prepared, casino regulations for the conduct of gaming including regulations for internal controls, slot and table play and coordinate the preparation of those regulations with the Management Company.
2. Recommend for adoption procedures for the licensing of vendors and employees and review the investigation of said applicants for final approval, renewal, revocation or suspension of such licenses, thus insuring that all applicants for key employees and all principal management employees are investigated as required by the Indian Gaming Regulatory Act and the Compact.
3. Recommend for adoption, Personnel Policies and Procedures, and insure the Executive Director is administering those policies and procedures and revisions when necessary.
4. Recommend the implementation of training for staff development training programs.
5. Prepare for and recommend for adoption, administrative procedures and policies and



revisions when necessary.

6. Conduct hearings in accordance with the established hearing procedures.
7. Provide direction and support to Commission Supervisors and employees.
8. Act as liaison between the Commission, the Tribal Council, the Management Company and the National Indian Gaming Commission, the "Association" created by Section 2.2 of the Compact, the California Gambling Control Commission and the California Division of Gambling Control in the Department of Justice.
9. Insure compliance with Tribal Ordinances.
10. Cause to be prepared periodic reports to the Tribal Council concerning the operation of the Casino.
11. Insure that the gaming offered to the public is fair.

Commissioners shall attend monthly meetings of the Commission and such other meetings as may be scheduled either by request of the Executive Director or Chairman. Every effort will be made to schedule meetings at a time convenient to all Commissioners.

The Commissioners shall vote on the adoption of all regulations, procedures and policies of the Commission.

The Commissioners shall be on call to respond, if necessary, to any emergent situation which is brought to their attention by the Executive Director.

The Commissioners shall participate as hearing officers in hearings relating to the licensure of vendors and employees of the gaming industry.

### **Commission Structure**

The Commission shall nominate and elect a Commission Chairman from within their eligible members, who shall act as the Director, charged with leading Commission meetings.

The Chairman shall have the same authority as all other Commissioners, however, shall serve the Commission as a leader and coordinator of Commission function, insuring effective scheduling, and assisting the Commission as determined required. The Commission meetings and hearings shall be conducted in a semi-formal method, with traditional parliamentary style rules (such as Robert's Rule of Order) governing all meetings and proceedings. The Commission shall have direct oversight responsibility of the gaming operation, the surveillance function, the internal audit function, the inspector function and the licensing and investigative functions of casino and gaming operations.

### **Term**

A Commissioner shall serve a two-year term. The individual terms shall be staggered. Two of the initial Commissioners shall be designated as having initially only a one year term, in order to accomplish the staggered term process. The initial Commissioners nominated and confirmed by the Tribal Council shall maintain a two year initial term with the subsequent two Commissioners serving a one year initial term in order to accomplish the staggered term scheme. Thereafter, all Commissioners shall serve a two-year term. Commissioners shall serve a maximum of five terms. A Commission Chairman shall serve as Chairman for a one-year period, as nominated, voted and elected by the Commission members. The term shall be for calendar years, beginning on January 1<sup>st</sup> of each year. Any portion of a year served by a Commissioner shall be considered a calendar year for the purpose of a Commissioner's term.

### **Support Personnel**

The Executive Director of the Gaming Commission shall designate a representative to be present at all official Commission meetings and functions to assist the Commission with secretarial, administrative, and support necessities. This representative or assistant shall report to the Commission Chairman as needed, and shall provide service as required, including recording and typing of minutes. The Commission and any Commissioner shall be furnished

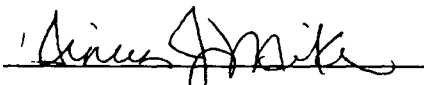
legal assistance, obtained through the Executive Director as deemed necessary.

### **Licensing**

The Commission shall have the responsibility to oversee and approve all licensing functions of the operation, and shall direct and approve all internal licensing in preparation for NIGC consideration. The Background and Investigations Unit shall conduct all investigations and application processes required for the licensing process, and compile the applications with staff recommendation from the Background Manager. The Commission shall have the power to issue, suspend, renew, and revoke licenses, establishing procedures for due process in license hearings, and shall sit in consideration of appeal involving revocation proceedings. The Commission shall direct the development of policies and procedures for the notification and administration of license processes, including application and revocation procedures. The Commission shall oversee all management contracts, background investigations, and vendor investigations involving casino gaming operations. The Commission shall have the final determination regarding the suitability of potential licensees, making such determinations according to policies established by the Commission in accordance with rules and regulations established and maintained by the Twenty-Nine Palms Tribal Council.

### **CERTIFICATION**

I, the undersigned Secretary of the Twenty-Nine Palms Band of Mission Indians General Council certify that Resolution No. 050203A was adopted at a duly-noticed and conducted meeting of the General Council on April 25, 2003 and thereafter duly ratified on May 2, 2003 at which a quorum was present by a vote of 6 for 0 against and 0 abstaining.

  
Dineen Mike, Secretary