

**TESTIMONY TO THE SENATE COMMITTEE ON
INDIAN AFFAIRS OVERSIGHT HEARING ON REGULATION OF TRIBAL
GAMING, APRIL 27, 2005**

Mr. Chairman, Mr. Vice Chairman, Honorable Committee Members,

My name is Norman DesRosiers. I have been a Tribal Gaming Commissioner or Executive Director for approximately 13 years. From 1998 to present I have served the Viejas Band of Kumeyaay Indians as the Commissioner and Chief Administrator of their Tribal Governmental Gaming Regulatory Agency. In addition I serve as Chairman of the National Tribal Gaming Commissioners and Regulators (NTGC/R) organization. Prior to this I also have a law enforcement background.

I would like to respectfully share my views on the current state of the regulation of Indian gaming.

It seems that we constantly hear that Indian gaming is insufficiently regulated. There is also a notion among many that "if it is not State regulated then it is not regulated". The implications being that Tribes are either unable or unwilling to regulate themselves.

With all due respect, I, and those who do the same job that I do in hundreds Tribal jurisdictions, find it offensive that this myth is consistently perpetuated.

Page Two

I would like to speak a moment about Viejas Gaming Commission. Since its creation the Tribe has approved multi-million dollar annual budgets for the agency. Fiscal year 2005 has an approved budget of nearly \$4 million (\$3,927,556.00). We have fifty-two (52) full time regulatory staff, just regulating one gaming facility. This is more financial and human resources than some gaming States appropriate, and nearly equivalent to the NIGC's budget not too many years ago.

With those resources we have the latest technology in computerized data bases and communications, digital fingerprinting equipment with electronic transmissions to NIGC, digital surveillance recording and storage, video facial recognition technology and the list goes on.

We have within the agency, highly qualified internal auditors, information technology (IT) personnel, background investigators who conduct in depth backgrounds on all of the casino's 2,400 employees (not just key employees), compliance officers who control the shipping, installation, testing, certification, and security of all slot machines and other gaming equipment, highly trained surveillance officers and a staff of inspectors/investigators who conduct all investigations of criminal activity, internal controls violations, and patron disputes. They wrote over 1,300 investigative reports last year. We have over 350 years of combined law enforcement and regulatory experience on our staff, including former IRS and Secret Service agents and numerous city, county and state law enforcement officers.

Page Three

I know first hand that we are not an exception in providing this high level of competent Tribal gaming regulation. Over the years I have personally visited dozens of Tribal regulatory agencies across the country and have been consistently impressed with the level of professionalism and resources dedicated to regulatory compliance and enforcement.

I would not sit here and attempt to convince you that it is a perfect world out there and that every single Tribe is at the same level of expertise. I am fully aware that some Tribal gaming agencies do not have the same level of experience and expertise as others. Some Tribes simply don't have the revenues to appropriate the same level of financial resources as others. However, some smaller facilities with smaller regulatory agencies can still effectively regulate. It usually boils down to working smarter and gaining the required knowledge on "how to" effect compliance.

To this end, the Tribes that I have had the privilege of serving have allowed me, at their expense, to share to my knowledge and experience with other Tribes. I am frequently called upon by NIGA to teach Gaming Commissioner certification classes. The NTGC/R organization is dedicated to the constant training of Tribal Commissioners. For the last 5 years I have established all of the training seminars for our biannual NTGC/R conferences. Due to the turnover in Tribal regulators there is a constant need for training and we are filling that gap.

Page Four

Now, to comment on some of the current challenges.

I have had the honor of having been selected to sit on the Tribal Advisory Committee to NIGC for the development of Federal Regulations for electronic bingo systems or technological aids to bingo (Class II) gaming. We have been working on the project for a year. There have been some deep divides in opinions between the expert members of the committee and the NIGC. It would appear that the primary consideration influencing the decision making of the NIGC, is their overwhelming concern that the Department of Justice will challenge the products manufactured in accordance with our regulatory guidelines and attempt to insist that the technological aids are facsimiles or Class III devices. The committee believes that the recommended guidelines for the aids are completely defensible and the product is technically distinguishable from Class III slot machines. Nonetheless the DOJ threat looms.

There is also the concern about the insistence of the DOJ that technological aids to bingo (electronic player terminals) are subject to the Johnson Act even though only involved in Class II gaming. This would appear contrary to recent appellate court rulings. Congress contemplated fixing that with an amendment to IGRA which would have specifically exempted Class II gaming equipment. However, the DOJ expressed a strong desire to have this equipment regulated in the same fashion as slot machines. The Tribes and NIGC are perfectly capable of regulating these games without "Johnson Act" controls.

Page Five

Another contemplated amendment to IGRA relates to backgrounding and licensing of vendors or contractors providing goods and services to Tribal casinos. Most of us are already doing that. Many jurisdictions have Compact requirements. I would urge great caution in any language which would allow Federal involvement in the process. My preference would be to simply authorize the NIGC to assist in backgrounding vendors only if and when asked to do so by a Tribal Gaming Agency.

In closing, while we genuinely share Chairman McCain's concern for ensuring the integrity of Indian gaming through competent effective regulation, we do not share the opinion that it is not happening. We believe that the vast majority of Tribes are doing at least an adequate, if not exemplary, job of regulating their gaming operations. We also believe that the majority should not be punished for the sins of the few who are unable or unwilling to effectively regulate. Adequate enforcement remedies already exist to bring the minority of non-compliant Tribes into compliance.

I wish to sincerely express my appreciation for the honor and privilege of having been invited here to address you on this most important matter. I will be most happy to answer any questions you may have or be of service to you with any future needs.

Sincerely,

Norman H. DesRosiers

Viejas Tribal Gaming Commissioner
5000 Willows Road
Alpine, CA 91901
619-659-1703