

Quapaw Tribal Gaming Agency
P. O. Box 405
Quapaw, Oklahoma 74363
918-919-6020
Fax 918-919-6040



August 26, 2011

Ms. Tracie L. Stevens, Chairwoman
National Indian Gaming Commission
1441 L St. NW, Suite 9100
Washington, DC 20005

Re: Enforcement Regulations – 25 C.F.R. Part 573

Dear Chairwoman Stevens,

The Quapaw Tribal Gaming Agency (“QTGA”) offers the following comments in response to the National Indian Gaming Commission’s (“NIGC”) preliminary draft of its proposed revisions to its enforcement regulations, as provided in 25 C.F.R. Part 573. The QTGA commends the NIGC for its commitment to consult meaningfully with tribes during this regulatory review process, and hopes that the comments below are helpful in improving the regulations that govern the NIGC’s enforcement functions.

The QTGA welcomes the NIGC’s proposal to adopt a voluntary compliance approach to enforcement, which provides tribes with notice and an opportunity to correct regulatory deficiencies before official enforcement action is taken by the NIGC. Tribal regulatory agencies such as the QTGA have the primary responsibility of implementing regulatory and enforcement duties under the IGRA. The voluntary compliance approach proposed by the NIGC gives greater deference to tribal governments in enforcement matters and ensures that the NIGC will take a less punitive approach to its enforcement functions. The QTGA is particularly pleased by the NIGC’s express statement of its goal of voluntary compliance, which we believe is reflective of the NIGC’s respect for the inherent sovereignty of tribal governments.

While the inclusion of a voluntary compliance approach to enforcement is a significant improvement over current regulations, we believe that certain sections would benefit from more specific procedural guidelines. For instance, the regulation is currently unclear as to whether the NIGC *must* offer tribes the opportunity to come into compliance before taking official action, or if there are instances in which a notice of violation (“NOV”) would be issued immediately without a time to cure. Also, while we were pleased by the explicit reference to the NIGC’s authority to withdraw an NOV in § 573.5, we believe this section should include a procedure for withdrawing an NOV that will provide clear guidance to both tribes and agency staff as to the process by which an NOV is withdrawn.

Additionally, the QTGA suggests that the NIGC consider including a “good faith exception” in § 573.2(c) that will give tribes additional time to come into compliance, provided that the tribe has made a good faith effort to resolve the non-compliance issue. We believe the inclusion of a good

faith exception would be consistent with the principles behind a voluntary compliance approach to enforcement.

In conclusion, the QTGA would like to thank the NIGC for this opportunity to participate in this consultation and comment process. We hope that you give meaningful consideration to our comments as you proceed with your deliberations.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Kyser-Collier".

Barbara Kyser-Collier
Director, QTGA