

NATIONAL
INDIAN
GAMING
COMMISSION

MAR 10 2000

Sandra E. Marquez, Gaming Commissioner
San Manuel Tribal Gaming Commission
P.O. Box 70
Patton, California 92369

Dear Ms. Marquez:

This letter responds to your request for the National Indian Gaming Commission's (NIGC) review and approval of the amendments to the San Manuel Band of Mission Indians (Band) gaming ordinance submitted on December 16, 1999. The Band, by a Resolution, adopted the amendment to the ordinance on September 28, 1999. The original ordinance was approved by the Chairman of the NIGC on January 10, 1995. This letter constitutes approval under the Indian Gaming Regulatory Act (IGRA) of the ordinance submitted on December 16, 1999.

Although the NIGC has approved these amendments, we note, with some concern, Section 6.4.1 on the composition of the San Manuel Gaming Commission. In particular, we are concerned that at least one member on the Gaming Commission shall be a member of the San Manuel General Council. Since the date the Band passed its amendments, the NIGC has issued Bulletin No. 99-3 on the importance of the independence of tribal gaming commissions (October 12, 1999).

This Bulletin, entitled Independence of Tribal Gaming Commissions, "encourages tribes to review their responsibilities and procedures in respect to gaming regulation and consider whether their tribal gaming commission operates in a sufficiently independent manner." The Bulletin suggests that no members of a tribal council should serve on the tribal gaming commission, but in the amendment, the San Manuel Gaming Commission will consist of at least one member of the San Manuel General Council. As indicated in the Bulletin, allowing tribal council members to serve on the gaming commission does not promote gaming commission independence. We would ask that the Band consider the advantages of having a Gaming Commission that is fully independent from the Tribal Council. Enclosed please find a copy of NIGC Bulletin No. 99-3.

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

Sincerely yours,



Montie R. Deer
Chairman

Enclosure

**CERTIFICATE
OF
RESOLUTION**

DEC 16 1999

**GENERAL COUNCIL
OF THE
SAN MANUEL BAND OF MISSION INDIANS**

WHEREAS, the Tribe adopted the San Manuel Gaming Act of 1989 ("Gaming Ordinance") and amendments thereto to regulate gaming activities on Tribal lands; and

WHEREAS, the Gaming Ordinance provides that the Gaming Commission shall consist of three commissioners, elected and removed by the Tribe's General Council, and provides for commissioner terms and qualifications and specifies how the Gaming Commission shall conduct business; and

WHEREAS, the Tribe wishes to amend those provisions in order to allow the Commission to conduct business effectively and fairly in circumstances where the Commission consists of fewer than three commissioners;

NOW THEREFORE, the Tribe adopts the changes indicated below, a redline copy of which is attached, to amend specific provisions of the Gaming Ordinance:

1. Section 6.4.1 of the Gaming Ordinance shall be revised as follows:

"The Tribe hereby establishes the San Manuel Gaming Commission to be composed of no more than three commissioners, at least one of which shall be a member of the San Manuel General Council. One commissioner or, in the alternative, a member of the San Manuel Gaming Commission staff, shall be designated as Secretary/Treasurer to the Commission. All commissioners shall be appointed and removed by the General Council. At least one Commission position shall be considered a full-time position. The person designated by the General Council to be Chairman shall be a full-time commissioner. Other commissioners may be part-time and either paid as such or may be reimbursed a set amount for each day actually served. Commissioners shall serve for three (3) year terms, which shall be determined from the date of appointment, and may serve for more than one term if re-appointed, and shall serve past the expiration of any term until replaced or removed. A commissioner may not be an elected official of the Tribe, employed in any Gaming Enterprise or by the Tribe in any other capacity while serving as a Gaming Commissioner. Gaming commissioners and Commission staff shall be precluded from consulting or employment in any position with the Tribe's gaming activities, including bingo or casino gaming, for a period of no less than two (2) years from their date of

termination at the Commission."

- 2. The last sentence of Section 6.4.3 of the Gaming Ordinance shall be revised as follows:

"Good cause shall include repeated (at least three or more) failures to attend required Gaming Commission meetings."

(The remainder of Section 6.4.3 shall remain as currently adopted.)

- 3. Section 6.4.4 of the Gaming Ordinance shall be revised as follows:

"Two (2) members of the Gaming Commission shall constitute a quorum for the purpose of conducting Commission business, provided that nothing herein shall preclude the Chairman of the Commission from conducting Commission business if notice of the meeting has been provided in a timely manner reasonably calculated to provide proper notice to all commissioners, and no commissioner has objected to the meeting. If any commissioner has a conflict of interest in investigating, hearing or deciding a matter to come before the Gaming Commission, such as matters involving a member of the commissioner's household or immediate family (parent, sibling, child or spouse), that commissioner shall recuse himself or herself for that matter.

When only the commissioner with a possible conflict is available to sit on the matter before the Commission, that commissioner shall recuse himself or herself and request the Tribe's Business Committee to serve as the Gaming Commission only for the purposes of that matter, with the exception of licensing matters, in which case the investigation shall be conducted under the direction of the Tribe's attorney through the process established in 6.4.2 of this Gaming Ordinance. All such matters shall be handled fairly and impartially."

- 4. The first sentence of Section 6.4.6 of the Gaming Ordinance shall be revised as follows:

"All actions of the Gaming Commission shall be taken by majority vote of commissioners present."

(The remainder of Section 6.4.6 shall remain as currently adopted.)

- 5. The second sentence of Section 6.4.7 of the Gaming Ordinance shall be revised as follows:

"Any commissioner employed on a full-time basis shall agree to be employed in accordance and consistent with policies set forth for other Tribal government employees, and shall be eligible for the same fringe benefits as such other full-time Tribal government employees, and to strictly abide by Commission oaths of confidentiality and professionalism in the discharge of their duties."

(The remainder of Section 6.4.7 shall remain as currently adopted.)

6. The first sentence of Section 6.4.8 of the Gaming Ordinance shall be revised as follows:

"Meetings of the Gaming Commission shall be held at least every other month in conjunction with, and at the location of, the Tribal Business Committee meeting ("Scheduled Meetings")."

(The remainder of Section 6.4.8 shall remain as currently adopted.)

CERTIFICATION

By a vote of the General Council of the San Manuel Band of Mission Indians, at a duly noticed meeting at which a quorum was present, held at approximately 5:00 p.m. on September 28, 1999 on the San Manuel Indian Reservation, the above recited resolution was passed by a vote of 21 "for," 0 "against," and 0 "abstention(s)."

Dated: September 28, 1999


HENRY DURO
Tribal Chairman