



SEP - 5 2012

By First Class Mail

Teri Poust, Esq.
8033 West Sunset Boulevard, #535
Los Angeles, CA 90064

Re: Twenty-Nine Palms Band of Mission Indians amended gaming ordinance

Dear Ms. Poust:

This letter responds to your request for the National Indian Gaming Commission to review and approve the Twenty-Nine Palms Band of Mission Indians amended tribal gaming ordinance. The amendment was approved by the General Council of the Tribe on July 26, 2012. The amended ordinance is complete revision to the ordinance that was approved in 1994 and includes amendments that were approved in 2003 and 2008.

Thank you for bringing this amendment to our attention and for providing us with a copy of the updated ordinance. The ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Senior Attorney John R. Hay at 202-632-7003.

Sincerely,

A handwritten signature in blue ink that reads "Tracie L. Stevens".

Tracie L. Stevens
Chairwoman

AUG - 3 2012



TWENTY-NINE PALMS BAND OF MISSION INDIANS TRIBAL GAMING ORDINANCE

The Tribal Gaming Ordinance duly enacted by the Twenty-Nine Palms Band of Mission Indians on June 25, 1991, and thereafter amended in 1993, 2003, and 2007, is hereby amended and restated in its entirety to read as follows:

I. Purpose

The Tribal Council of the Twenty-Nine Palms Band of Mission Indians (hereinafter "Tribe"), empowered by the Tribe's Articles of Association to enact ordinances, hereby enacts this Tribal Gaming Ordinance for the purpose of establishing the Twenty-Nine Palms Tribal Gaming Commission (hereinafter "Gaming Commission") and authorizing and regulating all gaming activities on tribal lands.

II. Gaming Authorized

Class II and Class III gaming as defined in the Indian Gaming Regulatory Act, 25 U.S.C. Section 2701 *et. seq.* ("IGRA"), and any regulations of the National Indian Gaming Commission ("NIGC") promulgated thereunder, are hereby authorized. Class III gaming shall be conducted in accordance with any Tribal-State Gaming Compact between the Tribe and the State of California ("Compact").

III. Ownership of Gaming

- A. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance.
- B. The Tribal Council is authorized to enter into a management contract for the maintenance, operation and management of any gaming operation on such terms and under such conditions as the Tribal Council shall determine to be fair and reasonable and in the best interest of the Tribe. Any such management contract must comply with IGRA and any regulations of the NIGC promulgated thereunder.

IV. Use of Gaming Revenue

- A. Use of Net Revenues. Net revenues from any gaming activities shall be used only for the following purposes: to fund tribal government operations and programs; to provide for the general welfare of the Tribe and its members; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies.
- B. Per Capita Payments. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. 2710(b)(3).

V. Audit

- A. Annual Audits. The Tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC.
- B. Gaming-Related Contracts. All gaming related contracts that result in the purchase of supplies, services, or concessions for more than \$25,000.00 in any year, except contracts for professional, legal or accounting services, shall be specifically included within the scope of the audit described in subsection A. above.

VI. Operation of Gaming Facilities

- A. Protection of the Environment and Public Health and Safety. All gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.
- B. Facility Licensing. The Gaming Commission shall issue a separate license to each place, facility or location where gaming is conducted under this Ordinance.
- C. Dispute Resolution. In the event a dispute arises between a patron and the gaming operation, such dispute shall be resolved in accordance with the terms of Chapter 7 of the Gaming Commission's regulations entitled "Patron Dispute Resolution."

VII. Minimum Internal Control Standards for Class III Gaming

- A. Applicable Standards. The Gaming Commission shall comply with 25 CFR Part 542 by formally adopting and making applicable to the Tribe's gaming operation(s) internal control standards that:

1. Provide a level of control that equals or exceeds those set forth in 25 CFR part 542 (as in effect on October 10, 2008 or as it may be amended); and
 2. Contain standards for currency transaction reporting that comply with 31 CFR Part 103; and
 3. Establish internal control standards for Class III games that are not addressed in the MICS, if any.
- B. Annual CPA Testing of Compliance. In order to verify that the gaming operation is in compliance with the internal control standards adopted pursuant to paragraph A, an independent certified public accountant ("CPA") shall be engaged annually to perform "Agreed-Upon Procedures" in the manner provided for in 25 CFR §542.3(f).
- C. Compliance. The Gaming Commission and the NIGC shall monitor and enforce compliance with the internal control standards adopted pursuant to paragraph A in the manner provided for in 25 CFR 542.3(g).

VIII. Gaming Commission

- A. Establishment of Gaming Commission. The Tribe hereby establishes the Twenty-Nine Palms Tribal Gaming Commission. The Tribal Gaming Commission shall function as an independent tribal entity charged with the regulation of all gaming activities on tribal lands. The Tribal Gaming Commission shall consist of no less than three (3) Commissioners, designated as described below.
1. Ex Officio Member. The Tribe, in its sole discretion and for the purpose of providing a mechanism for communication between the Tribe and the Gaming Commission, may designate an additional "ex officio" non-voting member of the Tribal Gaming Commission. Such "ex officio" member shall be an enrolled member of the Tribe and a duly authorized member of the Tribal Council. Such "ex officio" member's duty shall be to attend Gaming Commission meetings, represent the Tribe in external inter-tribal gaming regulatory matters, and serve as a liaison between the Tribal Council and the Gaming Commission.
- B. Term of Office. Each Commissioner shall serve a two-year term. The individual terms of Commissioners shall be staggered. Commissioners are not limited in the number of terms that they may serve.
- C. Appointment of Gaming Commissioners. The Tribal Council shall appoint all Commissioners. Vacancies shall also be filled, on either an interim or permanent

basis, by appointment of the Tribal Council. Tribal Gaming Commissioners must report to the Tribal Council when requested to do so by the Tribal Council.

1. Licensing Standards Applicable. Gaming Commissioners must meet the licensing standards otherwise applicable to applicants for a Tribal gaming license. Prior to appointment, the Tribe shall conduct or cause to be conducted an investigation of the background and personal history of any candidate for the position of Gaming Commissioner.
2. Qualifications for Service. Non-tribal members appointed to the Gaming Commission shall be professional or retired members of the community at large.
 - a) The Tribal Council, at its discretion, may appoint tribal member(s) to serve as a full participating and voting member of the Gaming Commission.
3. Disqualifications for Service. No member of the Gaming Commission may:
 - a. Be employed in the operation of Class II or III gaming.
 - b. Participate in any gaming activity offered by the Tribe in its gaming facilities.
 - c. Solicit or accept employment from any person or entity licensed by the Gaming 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.
 - d. During the member's term, own any securities of, or any ownership interest whatsoever in, any entity licensed by the Gaming Commission, provided, however, that this restriction shall not apply to publicly held corporations if the ownership therein is less than 5%.
4. Removal from Office. A Gaming Commissioner may be removed from office before the expiration of his or her term for:
 1. Gross negligence of duty;
 2. Failure to attend three successive meetings without just cause;
 3. A felony conviction or a crime involving dishonesty;
 4. Being physically or mentally incapable of performing the duties of office;
 5. Failure to comply with all laws and ordinances;

6. Violating the oath of office.
7. Or other good cause.

- D. Compensation. The Tribal Council shall set the compensation levels of the Gaming Commissioners, plus reimbursement not to exceed the Federal Government Rate for 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 entities.
- E. Officers and Duties. All Commissioners shall devote such time and attention to their duties as is necessary to fulfill their responsibilities. The Commission shall nominate and elect a Commission Chairman from within their eligible members, who is charged with leading Commission meetings.
1. Chairman Authority. The Chairman shall have the same authority as all other Commissioners. The Chairman shall lead and coordinate Commission operation, insuring effective scheduling and assisting the Commission as required.
 2. Length of Chairman Service. A Commission Chairman shall serve as Chairman for a one-year period. The term shall be for calendar years, beginning on January 1st 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. A Commissioner may serve consecutive terms as Chairman.
- F. Meetings. 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. 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.
- G. Executive Director. The Gaming Commission shall employ an Executive Director who shall be responsible for supervising and overseeing the daily activities of the Commission. The Executive Director shall serve as a full-time paid employee of the Tribal Gaming Commission and shall report to the Tribal Gaming Commission Chairman and to the Tribal Council.
1. Commission Meetings. The Executive Director shall be present at all official Commission meetings and functions to ensure that the Commission is provided with secretarial, administrative, and support assistance as needed, including the recording and typing of minutes.

- H. Gaming Commission Inspectors. The Gaming Commission shall employ duly qualified Inspectors who shall be independent of the gaming operation, as well as any management company, and shall be supervised by and be accountable to the Gaming Commission. These Inspectors shall report to the Gaming Commission regarding the failure by the gaming operation to comply with any provisions of this Ordinance, the Compact, or with any other applicable laws, ordinances, or regulations.
1. Investigation of Wrongdoing. The Gaming Commission shall be present in any gaming facility during all hours of operation through a Gaming 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, the Compact, and any other applicable laws, ordinances, or regulations.
 - a. Report to Commission. Any violation of this Ordinance, the Compact, or other applicable law, ordinance or regulation, shall be reported to the Gaming Commission in a timely manner.
 - b. Investigation by Commission. The Gaming Commission shall investigate any reported violation and shall require the gaming operation to correct the violation upon such terms and conditions as directed by the Gaming Commission.
 - c. Maintenance of Files. Upon completion of any investigation, the Gaming Commission shall maintain a file containing copies of all investigation reports and final dispositions.
- I. Duties and Responsibilities. The Tribal Gaming Commission shall have primary responsibility for the on-site regulation, control and security of any gaming facility. The duties and responsibilities of the Gaming Commission shall include:
1. The physical safety of patrons in the gaming facilities and operation.
 2. The physical safety of personnel employed by the gaming facilities and operation.
 3. The physical safeguarding of assets transported to and from the gaming facilities and cage department.
 4. Protecting the gaming facilities and operation from illegal activity and investigating any suspicion of wrongdoing in connection with any gaming activity.

5. Identifying all people and entities that may be involved in illegal activity and where proper, notifying appropriate authorities.
6. The right to inspect, examine and monitor gaming activities, including the power to demand access to and inspect, examine, photocopy and audit all papers, books and records respecting such gaming activities.
7. Ensure the recording of all unusual occurrences within the gaming facilities and operation.
8. Direct oversight responsibility of the gaming operation, the surveillance function, the internal audit function, the inspector function and the licensing and investigative functions of gaming facilities and operations.
9. Conduct or cause to be conducted such investigations in connection with any gaming activity as may be necessary to determine compliance with law or this Gaming Act or any contracts, agreements, goods, services, events, incidents, or other matters related to gaming activities;
10. Implement and administer a system for investigating, licensing and monitoring employees and others connected with gaming activities, including the issuance of licenses to the gaming facilities, and at a minimum, to all key employees and primary management officials, and to individuals and entities as required under this Gaming Act and IGRA;
11. Prepare or cause to be prepared regulations for the conduct of gaming, including regulations for internal controls, slot and table play, and ensure compliance with the same.
12. Adopt 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 ensuring that all applicants are investigated as required by this Ordinance, IGRA and the Compact.
13. Adopt Personnel Policies and Procedures and ensure that the Executive Director is administering those policies and procedures.
14. Provide direction and support to Commission supervisors and employees, implement staff development training programs, and adopt administrative procedures and policies and revise the same when necessary.
15. Ensure compliance with Tribal Ordinances.
16. Conduct hearings in accordance with established hearing procedures.

17. Develop procedures for the imposition of fines and sanctions.
18. Impose fines and other sanctions when warranted against a licensee, employee, or any other person or entity directly or indirectly involved in or benefitting from the gaming operation.
19. Act as liaison between the Tribal Council, the NIGC, the "Association" created by Section 2.2 of the Compact, and the State.
20. Prepare periodic reports to the Tribal Council concerning the operation of any gaming operation.
21. Ensure that the gaming offered to the public is fair.

IX. Gaming Licenses

- A. Gaming License Required. The Gaming Commission shall be responsible for ensuring that all persons engaged in any gaming activity on Tribal lands satisfy the requirements of this Ordinance. No person shall engage in any gaming activity on Tribal lands without the appropriate license issued by the Gaming Commission. No license shall be issued that would place the Tribe in violation of the Tribe's Compact or other applicable law.
- B. Gaming Commission Authority and Responsibilities. The Gaming Commission shall have the power to issue, suspend, renew, and revoke licenses, to establish procedures for due process in license hearings, and shall sit in consideration of appeal involving disciplinary, suspension and/or revocation proceedings. The Gaming Commission shall direct the development of policies and procedures for the notification and administration of license processes, including application and revocation procedures, and shall have the final determination regarding the suitability of potential licensees.
- C. Burden on Applicant; License is a Privilege. The burden of proving an applicant's qualifications to receive a gaming license under this Ordinance shall at all times be on the applicant. Possession of a gaming license is a privilege and not a right and therefore subject to suspension or revocation at any time.
- D. Definitions. For the purposes of this section, the following definitions apply:
 1. Key employee means:
 - 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.
- c. If not otherwise included, the four most highly compensated persons in the gaming operation; or
- d. Any other person designated by the Tribe as a key employee.

2. Primary management official means:

- 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;
- c. The chief financial officer or other person who has financial management responsibility; or
- d. Any other person designated by the Tribe as a primary management official.

E. Application Forms – Content.

- 1. License Application Form. The Gaming Commission shall request from each primary management official and 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 driver's 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 (1)(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 paragraph (1)(h) or (1)(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 deems relevant; and
 - n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. §522.2(h). The Background, Investigation and Licensing Department of the Gaming Commission shall take applicant fingerprints consistent with procedures adopted by the Gaming Commission, including a check of criminal history records information maintained by the Federal Bureau of Investigation.
- 2. Additional Information. The Gaming Commission reserves the right to request additional information from any applicant at any time.
 - 3. Confidentiality. The Gaming Commission shall conduct or cause to be conducted a background investigation sufficient to make an eligibility determination. In conducting a background investigation, the Gaming Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.
- F. Application Forms – Required Notices. The following notices shall be placed on the application form for a key employee or a primary management official before an applicant completes that form.
- 1. Privacy Act Notice. “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 granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the 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 issuance, denial, 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 tribe’s being unable to license you for 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. False Statement Notice. “A false statement on any part of your license application may be grounds for denying a license or the suspension or

revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001.)”

3. Existing Key Employees and Primary Management Officials. 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 and a notice regarding false statements; or
 - b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice and that contains the notice regarding false statements.

- G. Background Investigations. The Gaming Commission shall conduct or cause to be conducted all background investigations required by this Ordinance. In doing so, the Gaming Commission shall retain qualified personnel to conduct the required background investigations and compile all relevant information, including a recommendation as to whether the license should be granted or renewed. After the completion of such background investigations, the Gaming Commission shall evaluate the licensee’s eligibility as a key employee or primary management official according to the requirements at least as stringent as those in the regulations of the NIGC at 25 C.F.R. Parts 556 and 558.

- H. Eligibility Determination. The Gaming Commission 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 primary management official for granting of a gaming license. If the Gaming Commission, in applying the standards adopted herein, determines that licensing 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, the Gaming Commission shall not license that person in a key employee or primary management official position.

- I. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.
 1. When a key employee or primary management official begins work at a gaming operation, the Gaming Commission shall forward to the NIGC a completed application and conduct a background investigation in order to make an eligibility determination.
 2. Upon completion of a background investigation and eligibility determination, the Gaming Commission shall forward an investigative report to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the NIGC Chair.

3. A gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.
4. During a 30-day period beginning when the NIGC receives an investigative report, the NIGC may request additional information concerning a key employee or primary management official who is the subject of the report. The Gaming Commission shall respond to the request for additional information in a timely manner. Such a request shall suspend the 30-day period until the NIGC receives the additional information.

J. Report to the National Indian Gaming Commission

1. Before issuing a license to a primary management official or key employee, the Gaming Commission shall forward to the NIGC 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; and
 - d. The bases for those conclusions.
2. Along with the investigative report, the Gaming Commission shall submit a copy of the Gaming Commission's eligibility determination made in accordance with this Ordinance.
3. If a license is not issued to an applicant, the Gaming Commission:
 - a. Shall notify the NIGC; and
 - b. May forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.
4. With respect to key employees and primary management officials, the Gaming Commission shall retain license applications and reports (if any) of background investigations for inspection by the NIGC Chair or his or her designee for no less than three (3) years from the date of termination of employment.

K. Granting a Gaming License

1. If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Gaming Commission 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 Gaming Commission has provided an application and investigative report to the NIGC, the Gaming Commission may issue a license to such applicant.
2. If, within the thirty (30) day period described above, the NIGC provides the Gaming Commission with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Gaming Commission has provided an application and investigative report to the NIGC, the Gaming Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Gaming Commission shall make the final decision whether to issue a license to such applicant.

L. License Suspension

1. If, after the issuance of a gaming license, the Gaming Commission receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment, the Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.
2. The Gaming Commission 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 Gaming Commission shall decide to revoke or to reinstate a gaming license. The Gaming Commission shall notify the NIGC of its decision.

X. Service of Process. The Tribe designates the Executive Director of the Gaming Commission as its agent for service of process of any official determination, order, or notice of violation. In the absence of the Executive Director, the Chairman of the Tribe shall serve as its agent for service of process.


XI. Repeal of Prior Gaming Ordinances; Effective Date. All prior Gaming Ordinances of the Tribe and amendments thereto are hereby repealed. This Gaming Ordinance shall become effective upon the date approved by the Tribal Council.

XII. Severability. If any provision of this Gaming Ordinance is determined to be invalid, such determination shall not be held to render such provision inapplicable to other persons or circumstances, nor shall such determination render invalid any other provision of this Ordinance.

XIII. Repeal/Amendment. This Ordinance may be amended or repealed by a majority vote of Tribal Council providing a quorum is present. All amendments to this Gaming Ordinance must be approved by the NIGC.

CERTIFICATION

I, the undersigned Secretary of the Twenty-Nine Palms Band of Mission Indians General Council certify that the Gaming Ordinance amended July 26, 2012 was unanimously adopted at a duly-noticed and conducted meeting of the General Council at which a majority of membership was present by a vote of 7 in favor and 0 against.



Courtney Andrade-Gonzalez, Secretary