



OFFICE OF THE GOVERNOR

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BILL ANOATUBBY  
GOVERNOR

June 15, 2011

Ms. Tracie Stevens, Chairwoman  
National Indian Gaming Commission  
1441 I. Street N.W., Suite 9100  
Washington, DC 20005

Dear Chairwoman Stevens:

Included with this letter are comments from the Chickasaw Nation on the National Indian Gaming Commission's (NIGC) Discussion Draft of Part 559 – Facility License Notifications, Renewals, and Submissions. The efforts of the NIGC to engage tribal governments in revising existing regulations are to be commended, and the Chickasaw Nation appreciates the opportunity to participate in the consultative process.

NIGC proposals to remove the three-year gaming facility license renewal requirement in 25 C.F.R §559.3 and to remove the detailed environmental and public health and safety reporting requirements in 25 C.F.R § 559.5 are appreciated. It is our hope that the NIGC will find our input helpful as it considers amending Part 559 to more closely comport with the purposes and goals of the Indian Gaming Regulatory Act. Cooperative engagement and constructive dialogue are essential in ensuring a strong regulatory framework for tribal gaming.

Again, thank you for your consideration of the Chickasaw Nation's comments on this important regulation. We look forward to working closely with the NIGC on future drafts.

Sincerely,

*Bill Anoatubby*  
Bill Anoatubby, Governor  
The Chickasaw Nation

Enclosure

COMMENTS OF THE CHICKASAW NATION ON THE  
NATIONAL INDIAN GAMING COMMISSION'  
DISCUSSION DRAFT OF PART 559 – FACILITY LICENSE  
NOTIFICATIONS, RENEWALS, AND SUBMISSION

JUNE 10, 2011

The Chickasaw Nation is pleased to submit the following comments to the National Indian Gaming Commission (NIGC) Discussion Draft of Part 559 – Facility License Notifications, Renewals, and Submission. The Chickasaw Nation strongly believes that cooperative engagement and constructive dialogue are essential to ensuring a strong regulatory framework for tribal gaming and commends NIGC efforts to engage with tribes in amending its existing regulations, and it is our hope that the comments below prove useful as the NIGC works towards a final draft of this important regulation on facility licensing.

Since the NIGC facility licensing requirements were first proposed in 2007, we have voiced our concerns over the extent to which the regulation extended NIGC regulatory oversight beyond what was intended by Congress. Section 2710(b)(1) of the Indian Gaming Regulatory Act (IGRA) allocates the regulatory responsibility of issuing licenses to tribes, and not to the NIGC. We were pleased by the changes proposed by the NIGC, which address such concerns by recognizing the role of tribal governments as primary regulators of their gaming operations. In particular, we were pleased by the proposal by the NIGC to remove the environmental, public health and safety reporting requirements in § 559.5 of the current regulation and replace it with a tribal attestation that the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner that adequately protects the environment and public health and safety. The proposed change allows the NIGC to perform its oversight function in verifying that governmental mechanisms and legal structures are in place to safeguard the environment, public health and safety without interfering with the licensure authority delegated to tribal governments under IGRA. We were also pleased by the NIGC proposal to remove § 559.3 of the current regulation, which imposes a three-year renewal requirement on tribes. This proposed change is evidence that the NIGC respects and recognizes that tribes are the primary regulators by allowing tribal regulatory agencies to set the appropriate timeframe within which facility licenses must be renewed.

While we are highly supportive of the proposed NIGC revisions, which incorporate many of the changes recommended by tribes since the regulation was first proposed in 2007, we believe a few issues remain that require additional clarification. For your consideration, the Chickasaw Nation submits the following comments on the discussion draft regulation using the same section numbers as the draft regulation:

- **Section 559.2(b).** We agree that verification of the land's eligibility for gaming purposes is a proper function of NIGC oversight as contemplated under IGRA. However, we are concerned with the possibility of the verification process acting as a procedural barrier to the licensure or opening of a new gaming facility. If the NIGC determines that the land is not eligible for Class II or Class III gaming, there is a remedy which would entail the closure of such gaming facility, a fact of which tribal governments are well aware. Further, to the extent that the proposed 60-day extension language suggests that a tribe may not open a gaming facility on its Indian lands while the NIGC verification process is pending, we believe that such language is misplaced and should be clarified to affirm the licensure

authority is vested in tribal governments under IGRA. In considering additional revisions to this Section, we request that the NIGC keep in mind that this verification process should not operate to delay the opening of a casino or interfere with tribal authority to issue licenses.

- Sections 559.2(c) and 559.5. We request that the NIGC consider an amendment to § 559.2(c) to also exclude *temporary facility licenses issued for a period not to exceed 180 days* from NIGC notice requirements. Temporary facility licenses may be issued by the tribal regulatory agency for a variety of reasons, including the temporary relocation of a gaming facility due to severe weather or other emergency conditions. We do not believe that the issuance of such licenses should be subject to the same notice requirements as a permanent facility license. Also, we ask the NIGC to consider a similar 180-day timeframe before the notification requirement is triggered in the event of a temporary closure. Given the temporary nature of the action, we believe that a temporary closure for less than 180 days should not be subject to the same notice requirements as a permanent closure.
- Section 559.6. We request that the NIGC include language in this section that would provide guidance as to the circumstances under which the Chair would exercise his or her discretion in requesting additional Indian lands or environmental and public health and safety documentation. Since the NIGC is proposing to delete the environmental and public health and safety reporting requirement in its entirety, we believe that the Chair's discretion should only be exercised under narrowly limited circumstances.

Again, thank you for undertaking this major revision of the facility licensing requirements contained in Part 559. It is our hope that the NIGC will give meaningful consideration to our comments as deliberations proceed.