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May 31st, 2011

National Indian Gaming Commission
1441 L Street, NW, Suite 9100
Washington, DC 20005

Re: 25 CFR §514 Fees, Preliminary Draft

Dear Commissioners,

The Pit River Tribe ("Tribe") thanks you for the opportunity to comment on the Commission's Preliminary Draft of §514 Fees. This section of the Commission's regulations is of great importance to the Tribe and we are pleased that you are considering its revision. Our comments are as follows.

1. Flexibility Concerning the Submission of Quarterly Statements and Payment of Fees

In the past, it had been the Tribe's practice to pay its fees due to the NIGC on an annual basis since the fees owed by the Tribe in any given year are so little. Despite the fact that the proposed draft provides for quarterly payments, we would like to be able to continue this practice. We therefore suggest that a provision be added that would allow for such action, so long as the payments are not late. For example, the following language could be added to §514.1(c):

"Nothing herein shall prevent a Tribe from remitting payment less than quarterly so long as the amounts owed to the Commission are paid prior to the date on which they would otherwise be due."

It is our belief that this language would provide maximum flexibility to tribes, an underlying tenet of the Indian Gaming Regulatory Act. It also soundly recognizes the government-to-government relationship between tribal governments and the NIGC.

2. Addition of a Grace Period

The addition of a grace period for late payments is a marked improvement over the existing regulation and we commend the Commission for making such a consideration. Often is the case that a tribe's payment may be late simply because, for example, the person who normally submits the payment happened to be on vacation. Given the relative insignificance of the typical harm, the issuance of an NOV in such a case seems wholly inappropriate.

We would add that specifying that an NOV can only be issued after the submission of a statement and payment is 92 days late is very reasonable. The issuance of an NOV is a rather harsh alternative, often with severe consequences. Such action should only be taken in appropriate circumstances, otherwise its effectiveness stands to be lost.

3. Additional Time in Which to Respond to NIGC Notice of Late Payment

Section (c)(10) of the Preliminary Draft provides that a tribe shall have 15 days in which to respond to a notice of late payment received from the Commission. The Tribe believes that this timeframe is too short. Instead, the Tribe respectfully suggests that a tribe in such a situation have a minimum of 30 days in which to submit written information in response to such a notice of late payment.

4. Cap any Fee Assessment Accompanying an NOV

Just as the Commission proposes to limit the late fee that can be assessed on late payments, so too should the Commission limit the amount that can be assessed as a fee associated with the issuance of an NOV. We are keenly aware of situations where a mere \$700 was owed to the NIGC, and a proposed fee assessment of \$20,000 issued. We believe this to be excessive and inappropriately punitive. A degree of reasonableness must be employed when the NIGC establishes a fine and we strongly encourage the Commission to incorporate such reasonableness into this regulation.

Thank you again for the opportunity to provide these comments. We look forward to working with the Commission as it finalizes this regulation.

Sincerely, 

Juan Venegas – Tribal Chairman