

NATIONAL  
INDIAN  
GAMING  
COMMISSION

FEB 16 1995

Charles H. Hayes, Chairman  
Nez Perce Tribal Executive Committee  
P.O. Box 305  
Lapwai, Idaho 83540

Dear Chairman Hayes:

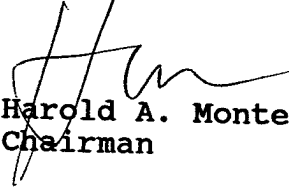
This letter responds to your request to review and approve the tribal gaming ordinance adopted on October 16, 1990, and amended on September 23, 24, 1993, and December 13, 16, 1994 by resolutions 89-232, 94-99, and 95-103, respectively, by the Nez Perce Tribe (Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games. It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Nez Perce Tribe for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

  
Harold A. Monteau  
Chairman

cc: Julie S. Kane, Esq.

R E S O L U T I O N

WHEREAS, the Nez Perce Tribal Executive Committee has been empowered to act for and in behalf of the Nez Perce Tribe, pursuant to the Revised Constitution and By-Laws, adopted by the General Council of the Nez Perce Tribe, on May 6, 1961 and approved by the Acting Commissioner of Indian Affairs on June 27, 1961; and

WHEREAS, the Nez Perce Tribe is a sovereign nation with the powers and sovereign rights of tribal governments to regulate activities and enforce laws on Indian lands; and

WHEREAS, the Nez Perce Tribe retains all rights that were not expressly relinquished including rights to regulate gaming on Indian lands; and

WHEREAS, the Nez Perce Tribe recognizes the need to cooperate and determine uniform public policies to accommodate the United States and other sovereignties that may be affected so that a uniform regulatory and jurisdictional pattern can be maintained to foster consistency and uniformity; and

WHEREAS, the Nez Perce Tribe wishes to be clearly and completely self-regulated to the maximum extent possible and control gaming within its reservation and jurisdictional lands; and

WHEREAS, the Nez Perce Tribe wishes to foster a spirit of cooperation with Federal and State officials in the regulation of all types of gaming to insure that any gaming is conducted for the general entertainment of all persons desiring to play in a fair, honest, open and enjoyable manner for recreation and enjoyment.

NOW, THEREFORE, BE IT RESOLVED, that the Nez Perce Tribal Executive Committee acting pursuant to a regularly held meeting, does hereby enact the following resolution:

1. TITLE

This law shall be cited as the Nez Perce Gaming Act of 1989.

2. PURPOSE

This law is enacted to:

2.01 Regulate all forms of permissible and authorized gaming within the jurisdiction of the Nez Perce Tribe of Indians.

2.02 Safeguard all persons from unscrupulous and illegal operations of any type of gaming.

2.03 Protect all persons from any infiltration of organized crime into any gaming operation within the jurisdiction.

2.04 Provide for tribal audit system on all gaming operations.

2.05 Provide that the tribe will have primary regulatory authority over all forms of gaming on the Nez Perce Reservation subject only to applicable federal law.

2.06 Provide for a system of investigations of all persons associated with gaming.

2.07 Provide a system of licensing for any gaming activities subject to the provisions of this Act that occur within the Nez Perce Reservation.

2.08 To provide revenues for the operation of the tribal government.

2.09 To allow the tribal government to use the revenues generated for tribal self determination, to generate value on the reservation, to provide additional tribal services, employment for tribal members and for general economic development and individual self-sufficiency of reservation members.

2.10 To harmonize with and adhere as much as possible to the Indian Gaming Regulatory Act, Public Law 100-497 102 Stat. 2467-88. 26 U.S.C. Sections 2701-21 as enacted by the U.S. Congress on October 17, 1988.

2.11 To cooperate and agree on a sovereign to sovereign basis with the State of Idaho and any other concerned or affected States to enter into compacts or other agreements for gaming operation, regulation or coordination.

2.12 To establish a commission within the tribal organization to oversee and regulated gaming consistent with this ordinance and within the precepts established by the Nez Perce Tribal Executive Committee.

### 3. DEFINITIONS

3.01 BINGO means a game, whether or not electronic, computer, or other technological aids are used in connection therewith.

(a) which is played for prizes, including monetary prizes with cards bearing numbers or other designations,

(b) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

(c) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such

cards, including (if played in same location) pull-tabs, lotto, punch boards, tip jars, instant-bingo, and other games similar to bingo.

3.02 FISHING DERBY means a fishing contest, with or without the payment or giving of any entry fee or other consideration by some or all of the contestants wherein prizes are awarded for the species, size, weight, or quality of fish caught in a bona fide fishing or recreational event.

3.03 FUND RAISING EVENT means a fund raising event sponsored by a bona fide religious, charitable or nonprofit organization at which gaming activities will be conducted under the authority and regulation of the Nez Perce Tribal Gaming Commission. Gaming as authorized under this section may be allowed provided that sixty percent of the net income from such events shall be devoted solely to the lawful purpose of the Nez Perce Tribe and provided that the tribal or BIA law enforcement agency shall be notified as to the time and place where such activity shall be conducted.

3.04 GAMING means those activities defined in Section 4.

3.05 PLAYER means a natural person who engages, on equal terms with the other participants, and solely as a contestant or better, in any form of gaming in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gaming activity.

3.06 LICENSE and variations of that word such as licenses and licensed, unless otherwise defined herein and as indicated by the context, means either (a) the authority granted by the Nez Perce Tribe to engage in gaming under this Act as evidenced by a formal document executed by tribal officials, or (b) the formal document evidencing authority granted by the Nez Perce Tribe to engage in gaming under this Act.

3.07 LICENSEE means a person, organization or entity authorized by the Nez Perce Tribe pursuant to this Act to operate a gaming activity on the Nez Perce Reservation.

3.08 THING OF VALUE means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or any interest therein.

3.09 OPERATOR means any person, organization or entity that operates any gaming activity that is subject to regulation under this Act, on the Nez Perce Reservation.

#### 4. CERTAIN GAMBLING ACTIVITIES AUTHORIZED

4.01 CLASS I GAMING is defined as social games solely for prize of minimal value or traditional forms of Indian gaming engaged in by

individuals as a part of, or in connection with, tribal ceremonies or celebrations.

(a) Class I gaming may be engaged in by individuals and organizations without restriction and is not subject to the provisions of this Act.

4.02 CLASS II GAMING is defined as:

(a) the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith) -

(i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, and

(ii) in which the holder of the card covers such numbers or designations with objects, similarly numbered or designated, are drawn or electronically determined, and

(iii) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including, (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and

(b) card games that -

(i) are explicitly authorized by the laws of the State of Idaho, or

(ii) are not explicitly prohibited by the laws of the State of Idaho and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

(c) The Nez Perce Tribe may engage in Class II gaming as an operator without the necessity of a license under this Act but shall comply with other applicable provisions of this Act.

(d) Until this Act is amended by appropriate action of the Nez Perce Tribal Executive Committee in a manner consistent with the relevant provisions of the National Indian Gaming Regulatory Act, 25 U.S.C. Sections 2701 - 2718, the Nez Perce Tribe shall be the only entity or organization authorized to engage in gaming activities on the Nez Perce reservation for profit to the exclusion of any other entity, organization or person. The Nez Perce Tribe may conduct or license gaming activities on behalf of a bona fide charitable, religious and non-profit organizations subject to regulations promulgated by the Commission on this topic and the National Indian Gaming Regulatory Act, 25 U.S.C. Sections 2701 - 2718.

4.03 CLASS III GAMING means all forms of gaming that are not Class I or Class II gaming.

(a) The Nez Perce Tribal Executive Committee hereby reserves the right to later enact authorization of Class III gaming as defined herein upon proper compliance with the Class III gaming requirements of the National Indian Gaming Regulatory Act, 25 U.S.C. SS 2701 - 2718.

5. GAMING PROHIBITED

5.01 All gaming activities not authorized by this Act, including, but not limited to, those activities commonly known as bookmaking, betting, card parlors, bunco or confidence games, pyramid clubs or schemes, chain letters and three card monte, are unlawful and prohibited.

6. NEZ PERCE TRIBAL GAMING COMMISSION ESTABLISHED

A commission known as the Nez Perce Tribal Gaming Commission is hereby established consisting of five enrolled members of the Nez Perce Tribe appointed by the Nez Perce Tribal Executive Committee. The length of each appointment shall be determined by the Executive Committee at the time of the appointment. Any vacancy shall be filled by the Executive Committee within thirty days from which date the vacancy occurs.

7. POWERS AND DUTIES OF THE COMMISSION

7.01 The Commission Shall:

(a) Oversee and regulate the gambling activities authorized by this chapter. Such power includes the power to inspect premises.

(b) Safeguard the morals of the Nez Perce Indian people and keep community peace by regulating by civil fines and/or civil prosecution of violations of this chapter.

(c) Issue licenses when such are required by this Chapter, and also to deny or revoke such licenses when it is deemed to be in the public interest.

(d) Formulate and promulgate rules and regulations which shall govern in detail the issuance of licenses, the amount of the license fee, the conduct of the authorized gambling activities, and the revocation of licenses.

(e) Insure the proper record keeping regarding gambling of all, namely licensees, persons, associations, organizations and the Nez Perce Tribe of Indians.

(f) Cause of review of all the records of all the above licensees at least annually.

(g) Cause annual outside audits of all gaming activities on the Nez Perce Reservation to be conducted and submitted to the National Indian Gaming Commission specifically including all contracts for supplies, services or concessions having a contract amount in excess of \$25,000.00

(g) Insure that facilities where gaming occurs are properly constructed and maintained and that the operation of the game is conducted in a manner which adequately protects the environment and the public health and safety.

## 8. GENERAL REQUIREMENTS FOR GAMING

8.01 An investigation of each employee or operator, including owners of an operating entity as defined at 8.13, prior to beginning work, shall be required to apply to the Commission for a determination that he or she:

(a) has committed no felony or gambling offense in any jurisdiction;  
and

(b) has no prior activities, reputation, habits, or associations affecting his/her present conduct that would pose a threat to the effective regulation and control of gaming, or enhance the dangers of unsuitable, unfair or illegal practices, methods or activities, in the conduct of gaming, and

(c) has no present interest in the conduct of any gaming business.

(d) The determination shall be confidential unless otherwise required for purposes of the tribal Personnel Policies and Procedures or the requirements of federal law or regulation.

8.02 The employee or contractor shall follow the application procedure for licenses described herein, provided that, no notice shall be published, and no public hearing shall be held. No employee may accept any gift or thing of value from a gaming contractor.

8.03 In addition to any provisions of the Tribal Personnel Code which may be applicable, any employee or operator shall be required to comply with the provisions of this law, the provisions of his contract with the Tribe, if any, and the provisions of applicable federal law.

8.04 Any entity which contracts with a tribal gaming operation, shall be required to submit to a determination as required in Section 8.01. No such contract will be valid until it is approved by the Commission and the Secretary of the Interior as is necessary under federal law.

8.05 Tribally operated gaming shall be held in compliance with this law.

8.06 Operators, or employees in charge of tribally operated gaming shall report quarterly to the Commission on the result of an outside audit of the operation, and the results of any contract for service or supplies.

8.07 Any operator or employee of the tribal gaming operation shall deposit the proceeds of the gaming operation according to applicable federal and tribal law.

8.08 Any operator or employee may request the assistance of the Commission in obtaining training or instruction for the benefit of the tribal gaming operation as well as in determining the proper meaning of this law.

8.09 The commission may require that any operator or employee of a tribal gaming operation be bonded in a particular amount.

8.10 The Commission may recommend to the Nez Perce Tribal Executive Committee that a particular type of tribal gaming be operated through a management contract. The management Contract must be in compliance with applicable federal law. The Commission shall require that the proposed operator comply with the for licenses under this Section 8 of this law, provided that a proposed manager need not be a tribal member. Sole Tribal approval of all management contracts shall remain with the Nez Perce Tribal Executive Committee.

8.11 All tribal gaming operations are subject to monitoring and inspection by the Commission or agents of the Commission.

8.12 It is the intent of this Resolution to obtain a Certificate of Self-Regulation from the National Indian Gaming Commission as established by Public Law 100-497, 25 U.S.C. Section 2704. 102 Stat. 2469 et. seq. To the extent necessary to obtain a Certificate of Self-Regulation, the Nez Perce Tribal Gaming Commission is delegated the power and authority to conform the tribal bingo operations to Public Law 100-497 and the Commission regulation when promulgated. A copy of this Resolution shall also be forwarded to the appropriate Federal authorities to obtain a Certificate of Self-Regulation as soon as possible. The Commission shall issue regulations, which will control:

- (a) The possession of firearms by operators or employees. No other firearms or weapons of any kind shall be allowed on gaming premises.
- (b) The security requirements for the operations.
- (c) The posting of rules of play.
- (d) The maximum limit, if any, which may be offered as a prize.
- (e) Rules for the conduct of the games, should the Commission deem that such rules are necessary for the proper conduct of gaming.



(f) Any other regulations controlling the operation which is deemed necessary by the Commission or the Council.

8.13 Any person authorized by the Commission, an employee or independent contractor, who has a financial interest other than salary or wages or management responsibility in the conduct of tribal gaming activities must be licensed by the Commission including those persons who may serve on the Board of Directors or other governing body of a corporation, trust, partnership or other entity or who own ten percent (10%) or more of the stock of a corporation or like interest in profits or capital of any other business entity.

8.14 The net revenues realized from any tribal gaming shall be used only

- (a) to fund tribal government operations or programs;
- (b) to provide for the general welfare of the Nez Perce Tribe and its members;
- (c) to promote tribal economic development;
- (d) to donate to charitable organization; or
- (e) to help fund operations of local governmental agencies.

8.15 Each affected person covered in 8.13 above must apply for a license to the Commission giving the name; address; any felonies; violations of any kind whatsoever relating to the gaming, fraud or illegal practices; social security number; previous gaming experience; fingerprints; and any and all other reasonable requirements as may be determined by the Commission.

8.16 The Commission shall determine whether or not to issue the license within 60 days after application.

8.17 A license shall be valid for not more than one year and shall be renewed in the same manner as the original application.

8.18 The Commission may charge a fee not in excess of \$50.00 for each application of renewal.

8.19 The members of the Commission shall be reimbursed for out of pocket expenses and shall be allowed per diems which have received the prior approval of the Nez Perce Tribal Executive Committee. Nez Perce Tribal Executive Committee shall establish Commission members salaries provided such payments shall come out of the license fees or the net proceeds of the gambling activities of the Nez Perce Tribe of Indians.

8.20 Prohibits members of the Gaming Commission and Nez Perce Tribal Executive Committee from participating in bingo games.

## 9. APPEAL FROM DECISIONS OF THE COMMISSION

If the Commission denies a person a license, or if the Commission revokes a license which was previously granted, the Commission shall do so in writing, outlining the reasons for such decision. If a person considers himself or herself aggrieved by such a decision, he or she may appeal to the Nez Perce Tribal Court within thirty days of the date of written denial. The appeal shall be only on the record, and shall not be heard de novo. If the Court finds that the order of the Board was issued arbitrarily and capriciously, clearly erroneously, or in violation of the Constitution of the Nez Perce Tribe of Indians or the constitutional rights of Indians (25 U.S.C. Sections 1301-1303), made upon unlawful procedure of some other clear error of law, the Court shall vacate the same and remand the issuance or re-issuance of a license. Otherwise, the denial shall be upheld.

#### 10. INSPECTION OF PREMISES

10.1 The premises where authorized gambling activities are being held shall be subject to inspection and audit at any reasonable time by persons designated by the Commission, with or without notice as follows:

(a) if the items or records to be inspected or audited are located anywhere upon a premises any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open, or at which they are usually open;

(b) or if the items or records to be inspected or audited are not located upon a premises set out in subsection (1) above, then any time between the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday.

10.2 The Commission shall be provided at such reasonable intervals as the Commission shall determine with a report, under oath, detailing all receipts and disbursements in connection with such gambling activities together with such other reasonable information as required in order to determine whether such information as required in order to determine whether such activities comply with the purposes of this Chapter.

#### 11. CIVIL PENALTIES FOR VIOLATIONS

11.1 Any person who shall violate any provisions of this Chapter or shall conduct gambling operations without a required license, shall commit fraud or deceit, or shall engage in professional gambling, shall be subject to one or all of the following civil remedies:

(a) a letter or reprimand.

(b) a civil fine of \$500.00 per occurrence per day and

(c) revocation of license.

(d) a civil injunction against continued violations of this Chapter.

(e) exclusion from the Nez Perce Reservation in conformity with the Nez Perce Tribal Law and Order Codes.

## 12. EXCLUSION OF INDIVIDUALS FROM GAMING ACTIVITIES

12.1 Any operator shall have the authority and discretion to exclude from gaming activities or gaming facilities, any individual who

- (a) Appears to be under the influence of intoxicants;
- (b) Appears to be losing an unreasonable amount of money at gaming activities;
- (c) Appears to be violating rules or regulations governing gaming activities as established by the Commission or operator;
- (d) By virtue of his condition or activities, disturbs the peaceful participation of other individuals in gaming activities or disrupts the orderly conduct of the gaming activity.

12.2 An operator may make reasonable inquiries of individuals in the course of determining whether any of the activities defined in paragraph (a) above are occurring.

12.3 An operator who excludes any individual pursuant to this section shall not incur any liability, criminal or civil, as a result of doing so.

12.4 Any person who is excluded from gaming by an operator pursuant to this section may petition the Commission for an order lifting the exclusion. The Commission shall have full discretion in determining whether to hear any such petition and shall have the authority to enact such rules as may be necessary regarding the procedures for acting upon any such petition. The Commission shall further have discretion to impose such conditions as they deem appropriate in issuing any order lifting an exclusion.

## 13. TAXATION OF GAMING

The Nez Perce Tribe hereby specifically reserves, through its inherent power, the full right and authority to adopt or impose a uniform and comprehensive system of revenue, taxation and incensing relating to gaming allowed by this Resolution.

## 14. DISPENSATION OF FOOD AND BEVERAGES

Regulation of the wholesale, retail, serving and licensing of, or the dispensation of any and all kinds of beverages, spiritous or otherwise, and the serving of all kinds and types of food at gaming premises is hereby vested in the Nez Perce Tribal Gaming Commission.

The Commission shall promulgate reasonable regulations governing these matters.

15. SEVERABILITY

If any clause, provision or section of this resolution shall be ruled invalid or unenforceable by any court of competent jurisdiction by final order after all appellate jurisdiction is exhausted, such holding shall not invalidate or render unenforceable any other remaining provisions of this Resolution. Until such final order is entered and review exhausted, the questioned provisions shall be absent and enforceable in junction to the contrary, in full force and effect.

16. AMENDMENT

Except as provided in 8.12 , all powers of amendment are retained by the Nez Perce Tribal Executive Committee.

17. SOVEREIGNTY

The Nez Perce Tribal Executive Committee acting for the Nez Perce Tribe of Indians by this enactment, does expressly retain and does not in any way waive its Right of Sovereignty as expressed in treaties, laws or in any other manner.

C E R T I F I C A T I O N

The foregoing resolution was duly adopted by the Nez Perce Tribal Executive Committee meeting in Special Session, October 16, 1990, in the Richard A. Halfmoon Council Chambers, Lapwai, Idaho a quorum of its Members being present and voting.

BY: Brenda L. White  
for Julia A. Davis, Secretary

ATTEST:

Samuel N. Penney  
for Charles H. Hayes, Chairman

APPROVED PURSUANT TO DELEGATION  
OF AUTHORITY.

Sharon J. Hepa  
Acting Superintendent  
Northern Idaho Agency  
October 16, 1990

FEB 13 1995

Superintendent, Northern Idaho Agency

Nez Perce Resolutions No. 95-102 and 95-103

Portland Area Director  
Attention: Tribal Government Services

Nez Perce Resolution 95-102 adopts the attached Memorandum of Understanding (MOU) which establishes the procedures for conducting Criminal History Record Information (CHRI) for employees applying for management and key employee positions with the Tribe's gaming enterprises.

Nez Perce Resolution approves the attached amendments to the existing Gaming Ordinance. These amendments are now known as, "1995 Gaming Ordinance Amendments."

We have reviewed these Procedures and Amendments and find they are very thorough and complete. By Delegation of Authority, we hereby APPROVE this action taken by the Tribe.

1208827377

Attachment

cc:  
Tribe w/resol.  
Agency Master w/resol.  
Branch Subject w/resol.  
Law Enforcement, NIA, w/resol.  
Branch Chrono  
Agency Chrono

GJGREENE/gjg 2-9-95



C. Net revenue means gross gaming receipts of a gaming operation minus amounts paid out as, or paid for, prizes; and total gaming-related operating expenses, excluding management fees.

D. Primary management official means the person having management responsibility for a management contract; or any person who has authority to hire and fire employees; or to set up working policy for the gaming operation; or the chief financial officer or other person who has financial management responsibility.

E. Tribe means the Nez Perce Tribe.

## II. Ownership of Gaming and Use of Gaming Revenue.

A. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance, unless individually owned gaming is approved and licensed under this ordinance.

1. In order to be licensed by the Nez Perce Tribe, individual owners, in addition to the requirements of this ordinance, shall also be required to:

a. Pay to the Nez Perce Tribe not less than 60 percent of the individually owned operation's net revenues, to be used only for the purposes set forth below;

b. Pay an assessment to the National Indian Gaming Commission as set forth in 25 CFR § 514.1;

c. Comply with eligibility standards of a State license for the same activity, so that if the individual is ineligible to receive a State license to conduct the same activity within that jurisdiction, a tribal license shall be denied.

B. Net revenues from tribal gaming or from individually owned games shall be used only for one or more of the following purposes:

1. To fund tribal government operations or programs;
2. To provide for the general welfare of the tribe and its members;
3. To promote tribal economic development;
4. To donate to charitable organizations; or
5. To help fund operations of local government agencies.

D. 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).

**III. Key Employees and Primary Management Officials.**

A. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

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 employed in a gaming operation. The information will be used by 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 hiring or firing of an employee, the issuance 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 a tribe's being unable to hire you in 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.

B. Existing key employees and primary management officials shall be notified in writing that they shall either:

1. Complete a new application form that contains a Privacy Act notice; or

2. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

C. The following notice shall be placed on the application form for a key employee or primary management official before that form is filled out by an applicant.

A false statement on any part of your application may be grounds for not hiring you, or for terminating you from employment after you begin work. Also, you may be punished by fine or imprisonment. 18 U.S.C. § 1001.



D. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

1. Complete a new application form that contains a notice regarding false statements; or
2. Sign a statement that contains the notice regarding false statements.

IV. Background Investigations.

A. The Tribe shall require from each key employee and from each primary management official all of the following information:

1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
2. 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;
3. 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 addresses, and drivers license numbers;
4. Current business and residence telephone numbers;
5. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
6. 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;
7. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name or address of the court involved, and the date and disposition if any;
8. 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;
9. For each criminal charge (excluding minor traffic charges), whether or not there was a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph

(IV.A.7. or IV.A.8. of this section, the criminal charge, the name and address of the court involved and the date and disposition;

10. 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;

11. A current photograph;

12. Any other information the Tribe deems relevant;

13. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. 522.2(h).

B. The Tribe shall conduct an investigation sufficient to make a determination under subsection IV.C. below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

C. Eligibility Determination. The Tribe 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 employment in a gaming operation. If the Tribe determines that employment 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, a tribal gaming operation shall not employ that person in a key employee or primary management position.

D. The Tribe shall follow the following procedures when forwarding applications and reports for key employees and primary management officials to the National Indian Gaming Commission (NIGC):

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe shall forward to the NIGC a completed application for employment and conduct the background investigation and make the determination referred to in subsection IV.C. above.

2. The Tribe shall forward the report referred to in subsection IV.E. to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the NIGC.

3. The gaming operation shall not employ as a key

employee or a primary management official a person who does not have a license after 90 days.

E. Report to the NIGC. Pursuant to the procedures set forth in subsection IV.D., the Tribe shall forward to NIGC an investigative report on each background investigation.

1. 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 basis for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection IV.C.

3. If a license is not issued to the applicant by the Tribe, the Tribe:

a. Shall notify NIGC; and

b. May forward copies of its eligibility determination and investigative report (if any) to NIGC for inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Tribe shall retain application for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee no less than three (3) years from the date of termination of employment.

#### V. Issuance of Gaming Licenses.

##### A. Response from NIGC.

1. If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Tribe that it has no objection to the issuance of a license by the Tribe to the individual for whom the Tribe has provided an application and investigative report to the NIGC, the Tribe may issue a license to such applicant.

2. The Tribe shall respond to a request for additional information from the Chairman of the NIGC concerning a key

employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under the preceding paragraph until the Chairman of NIGC receives the additional information.

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

**B. License Suspension.**

1. If, after the issuance of a gaming license, the Tribe receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Tribe 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 Tribe shall decide to revoke or reinstate a gaming license. The Tribe shall notify the NIGC of its decision.

**VI. License Locations.** The Tribe shall issue a separate license to each place, facility, or location on Indian lands where any gaming is conducted under this ordinance.

**VII. Dispute Resolution Process.**

A. The Nez Perce Tribal Gaming Commission, as established in NP 89-232 (Amended) §4.03 (6.) is authorized to oversee and regulate all gambling activities authorized by this ordinance, including decision-making authority in regard to any disputes that may arise by applicants, licensees, or the gaming public.

B. Any person having a dispute with the Tribe or any Gaming Operator or Management Company licensed by the Tribe may request a hearing with the Nez Perce Tribal Gaming Commission. Such a hearing shall be held within thirty (30) days of receipt of a written request from the grievant. A decision shall be issued at the hearing or within two (2) weeks of the hearing.

C. If the grievant is dissatisfied with the decision issued by the Nez Perce Tribal Gaming Commission, he or she may appeal to

the Nez Perce Tribal Court within thirty (30) days of the issuance of the written decision from the Nez Perce Tribal Gaming Commission. The appeal shall be only on the record and shall not be heard de novo. If the Court finds that the order of the Nez Perce Tribal Gaming Commission was issued arbitrarily and capriciously, clearly erroneously, or in violation of the Constitution of the Nez Perce Tribe of Indians or the constitutional rights of Indians (25 U.S.C. §§ 1301-1303), made upon unlawful procedure or some other clear error of law, the Court shall vacate the same and remand. Otherwise, the decision of the Nez Perce Tribal Gaming Commission shall be upheld.

C E R T I F I C A T I O N

The foregoing resolution was duly adopted by the Nez Perce Tribal Executive Committee meeting in Regular Session, December 13, 16, 1994, in the Richard A. Halfmoon Council Chambers, Lapwai, Idaho, a quorum of its members being present and voting.

By: Brenda L. White  
Brenda L. White, Secretary

Attest:

Charles H. Hayes  
Charles H. Hayes, Chairman

APPROVED Pursuant to Delegation of Authority.

[Signature]  
Superintendent, Northern Idaho