



January 8, 2004

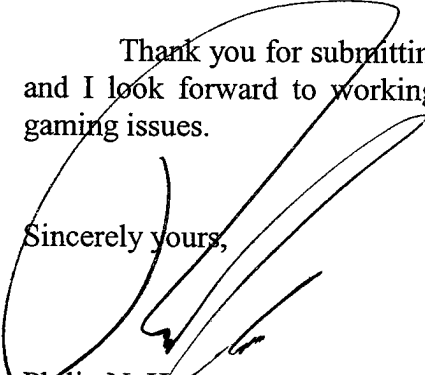
Arnold D. Samuel, Esq.
Albietz & Samuel
2001 "N" Street, Suite 100
Sacramento, CA 95814

Dear Mr. Samuel:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve the November 17, 2003, Timbisha Shoshone Tribe (Tribe) Gaming Ordinance No. 01-2003 and the Tribal Gaming Regulations approved by the Tribal Council. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA). It is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the ordinance for review and approval. The NIGC staff and I look forward to working with you and the Timbisha Shoshone Tribe on future gaming issues.

Sincerely yours,



Philip N. Hogen
Chairman

ORDINANCE # 01-2003

GAMING

#01-2003-1 PURPOSE

The Tribal Council of the Timbisha Shoshone Tribe ("Council"), empowered by the Constitution and bylaws of the Timbisha Shoshone Tribe ("Tribe"), hereby enacts this Ordinance to govern class II and, subject to the establishment of a compact with the State of California, class II gaming operations on Tribal lands. The Council of the Timbisha Shoshone Tribe, empowered by the Constitution and bylaws of the Timbisha Shoshone Tribe also hereby establishes the Timbisha Shoshone Gaming Commission to conduct all the provisions empowered to the Commission provided for in this ordinance.

#01-2003-2 GAMING AUTHORIZED

Class II and class III gaming, subject to the establishment of a compact with the State of California, as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. §§ 2703(7)(A) and 2702(8) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 CFR § 502.3 (as published in the Federal Register at 57 FR. 12382-12393, April 9, 1992 or any subsequent amendments thereto) is hereby authorized.

#01-2003-3 OWNERSHIP OF GAMING

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance.

#01-2003-4 USE OF GAMING REVENUE

a. The Council reserves the right to adopt or impose a uniform and comprehensive system of revenue distribution and taxation relating to gaming, provided such system is adopted in compliance with the IGRA.

b. Except as may be authorized by actions taken pursuant to such reservation, net revenues from gaming 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.

c. If the Council 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 or delegated authority under 25 U.S.C. § 2710(b)(3) and such rules as may be promulgated by the Council and/or the Secretary under lawful authority.

#01-2003-5 AUDIT

a. The Council shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission as may be required by law.

b. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit.

#01-2003-6 ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

All Tribal gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

#01-2003-7 LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

The Gaming Commission will perform background investigations of and issue licenses to Key Employees and Primary Management Officials according to the requirements of 25 CFR §§ 556 and 558. The Gaming Commission shall ensure that the policies and procedures set out in the following sections are implemented with respect to Key Employees and Primary Management Officials employed at any gaming enterprise operated on Timbisha Shoshone Tribal lands.

#01-2003-8 DEFINITIONS

For the purposes of this section the following definitions apply:

a. Key Employee means any 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;
- (11) If not otherwise included above, any other person whose total cash compensation is in excess of \$50,000 per year; or
- (12) If not otherwise included above, the four most highly compensated persons in the gaming operation.

b. Primary Management Official means any person who:

- (1) Has management responsibility for a management contract;
- (2) Has authority to hire and fire employees or to set up working policy for the gaming operation; or
- (3) Has financial management responsibility; for example, the chief financial officer.

#01-2003-9 APPLICATION NOTICE

a. The following notices shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by the applicant:

(1) "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 disclosure 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.

(2) "A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment (U.S.Code, title 18, section 1001)."

b. The Gaming Commission shall notify, in writing, existing Key Employees and Primary Management Officials that they shall:

- (1) Complete a new application form that contains a Privacy Act notice pursuant to subsection (a)(1) of this section; or
- (2) Sign a statement that contains the Privacy Act notice and consent to the routing uses described in that notice.

and also that they shall:

- (1) Complete a new application form that contains a notice regarding false statements pursuant to subsection (a)(2) of this section; or
- (2) Sign a statement that contains the notice regarding false statements.

~~#01-2003~~ to **BACKGROUND INVESTIGATIONS**

a. In addition to any applicable provisions in any compact with the state of California, the Gaming Commission shall conduct a background investigation for each Primary Management Official and for each Key Employee. The Gaming Commission shall request from each Primary Management Official and from each Key Employee 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 drivers 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 listed under paragraph (2) of this section;

(4) Current business and residence telephone numbers;

(5) A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;

(6) A description of any existing or previous business relationships with the gaming industry generally, including ownership interest in those businesses;

(7) 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;

(8) 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;

(9) 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, if any;

(10) 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 (8) or (9) of this section, the criminal charge, the name and address of the court involved and the date and disposition, if any;

(11) 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;

(12) A current photograph;

(13) Any other information the Gaming Commission deems relevant; and

(14) Fingerprints consistent with procedures adopted by the Gaming Commission according to 25 CFR § 522.2(h).

b. The Gaming Commission shall conduct an investigation sufficient to make a determination under #01-2003-11 below. In conducting a background investigation, the Gaming Commission or its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

c. If the National Indian Gaming Commission has received an investigative report concerning an individual who another Tribe wishes to employ as a Key Employee or Primary Management Official and if the Gaming Commission has access to the investigative materials held by the first Tribe, the Gaming Commission may update the investigation and update the investigative report under section #01-2003-12 below.

#01-2003-11 ELIGIBILITY DETERMINATION

The Gaming Commission shall review a person's prior activities, criminal record, if any, reputation, habits and associations to determine the eligibility of a Key Employee or Primary Management Official for employment in a gaming operation. If the Gaming Commission, in applying the standards of this ordinance, 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, methods and activities in the conduct of gaming, a management contractor or Tribal gaming operation shall not employ that person in a Key Employee or Primary Management Official position. In conducting this investigation, or any other activity such as fingerprinting, the Gaming Commission is authorized to employ the services of any federal or state law enforcement agency and is directed to check, or have the investigation check, the criminal history records of the Federal Bureau of Investigation.

#01-2003-12 PROCEDURES FOR FORWARDING APPLICATIONS TO THE NATIONAL INDIAN GAMING COMMISSION

a. When a Key Employee or Primary Management Official begins work at a gaming operation of the Tribe, the Gaming Commission shall forward to the National Indian Gaming Commission a completed application for employment which contains the notices and information contained in sections #01-2003-7 and #01-2003-9 above, and shall conduct the background investigation

and make the eligibility determination for employment, or for continued employment, in a gaming operation as referred to in section # 01-2003-10.

b. Upon completing the background investigation and the determination of eligibility for employment, or for continued employment, in a gaming operation, the Gaming Commission shall forward the report referenced in section # 01-2003-12 to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.

c. The gaming operation shall not employ as a Key Employee or Primary Management Official an individual who does not have a gaming license within 90 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.

d. *During a thirty (30) day period beginning when the National Indian Gaming Commission receives an investigative report from the Gaming Commission, the Chairman of the National Indian Council concerning a Key Employee or a Primary Management Official who is the subject of the investigative report. Such a request shall suspend the 30-day period until the Chairman of the National Indian Gaming Commission receives the information requested.*

#01-2003-13 REPORT TO THE NATIONAL INDIAN GAMING COMMISSION

a. Pursuant to the procedures set out in section # 01-2003-11, when the Gaming facility employs a Primary Management Official or a Key Employee, the Gaming Commission shall forward to the National Indian Gaming Commission a completed application containing the information listed in 25 CFR § 556.4(a)(1)-(13).

b. Before issuing a license to a Primary Management Official or to a Key Employee, the Gaming Commission shall forward to the National Indian Gaming Commission an investigative report on each background investigation conducted. An investigative report shall include all of the following:

- (1) Steps taken in conducting a background investigation;
- (2) Results obtained;
- (3) Conclusions reached; and
- (4) The basis for those conclusions.

Timbisha Shoshone Gaming Ordinance #01-2003

c. The Gaming Commission shall submit with the report a copy of the eligibility determination made pursuant to section #01-2003-10 above.

d. If the Gaming Commission does not license an applicant, the Gaming Commission:

(1) Shall notify the National Indian Gaming Commission; and

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

e. With respect to Key Employees and Primary Management Officials, the Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

#01-2003-14 GRANTING A GAMING LICENSE

a. The Gaming Commission shall develop licensing procedures for all employees of a gaming operation. The procedures and standards of 25 CFR §§ 556 and 558, which are incorporated in this Ordinance, apply only to Primary Management Officials and Key Employees.

b. A right to a hearing under section #01-2003-14 below shall vest only upon receipt of a license granted under an ordinance approved by the Chairman of the National Indian Gaming Commission.

c. If, within a thirty (30) day period after the National Indian Gaming Commission receives a background investigation and a determination of eligibility report from the Gaming Commission, the National Indian Gaming Commission 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 National Indian Gaming Commission, the Gaming Commission may issue a license to such applicant.

d. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Gaming Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a

Timbisha Shoshone Gaming Ordinance #01-2003

Primary Management Official for whom the Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Gaming Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribal Council shall make the final decision whether to issue a license to such applicant.

#01-2003-15 LICENSE SUSPENSION

a. If, after the issuance of a gaming license, the Gaming Commission receives notice from the National Indian Gaming Commission that it has received reliable information indicating that a Key Employee or a Primary Management Official is not eligible for employment under 25 CFR § 558.2, the Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

b. The Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of their license.

c. After a revocation hearing, the Council shall decide to revoke or to reinstate a gaming license. The Gaming Commission shall notify the National Indian Gaming Commission of the Council's decision.

#01-2003-16 LICENSE LOCATIONS

A tribal license is required for each place, facility, or location on Indian lands where class II and/or class III gaming is conducted. Thus, the Tribal Council shall issue a separate license to each place, facility, or location on Indian lands where class II and/or class III gaming is conducted under this Ordinance.

#01-2003-17 COMPLIANCE WITH TRIBAL LAWS

a. All employees, managers and gaming patrons shall be required to comply with the laws of the Timbisha Shoshone Tribe. Violations of Tribal laws shall be grounds for termination of employment and expulsion from the gaming premises.

b. All relations between gaming employees and the enterprise shall be subject to the personnel, drug and other relevant policies of the Timbisha Shoshone Tribe.

c. Nothing herein shall be interpreted as authorizing violations of the IGRA, or the regulations promulgated thereunder.

#01-2003-18 DISPUTE RESOLUTIONS

a. Any dispute between a member of the gaming public and any employee of the gaming enterprise arising on the gaming premises of the Tribe that is not clearly a violation of Tribal law shall be resolved by the supervisor of the employee involved in such manner that will prevent violence and eliminate or reduce bad publicity for the enterprise, provided such resolution does not risk unnecessarily the resources of the enterprise. If the supervisor is unable to resolve the matter immediately to the satisfaction of the gaming patron in compliance with this section, the matter shall be referred to the gaming manager for resolution.

b. Any dispute between a member of the gaming public that is not resolved pursuant to subsection (a) or any dispute involving the gaming manager that is not clearly a violation of Tribal law arising on the gaming premises of the Tribe shall be referred to the Tribal Council. The Council shall provide an opportunity, at the convenience of the parties, for all parties to the dispute to be heard and to confront any witness against them. The Council shall resolve all disputes based on the record in a fair and equitable manner.

c. Any dispute involving violation of Tribal law shall result in expulsion of a gaming patron from the gaming premises. Such person shall have the right to request a hearing before the Tribal Council, which shall be granted if the issue presented involves a question of the loss of money or property by the gaming patron. A hearing for any other reason shall be granted at the discretion of the Council.

d. All hearings granted under this section shall be conducted in compliance with the Indian Civil Rights Act.

#01-2003-19 NOTICE TO TRIBAL CHAIRPERSON

All notices required under law or regulations with respect to gaming activities shall be sent to the following address:

Tribal Chairperson
Timbisha Shoshone Tribe
110 Edwards Street
Bishop, CA 93514

Timbisha Shoshone Gaming Ordinance #01-2003

#01-2003-20 REPEAL

To the extent that they are inconsistent with this Ordinance, all prior gaming ordinances are hereby repealed.

CERTIFICATION
ORDINANCE # 01-2003

We, the undersigned duly elected officials of the Timbisha Shoshone Tribe, do hereby certify under penalty of perjury that at on 11/17/03, the foregoing Ordinance was adopted at a duly called meeting of the Tribal Council of the Timbisha Shoshone Tribe, with a quorum present, by a vote of:

4 for, 0 against, and 0 abstaining.

Shirley Summers
Shirley Summers, Tribal Chairperson

11-17-2003
Date

ATTESTED BY:

Doreen Mason
Doreen Mason, Secretary

11-17-03
Date