



AUG - 4 2004

Ralene Clower
Chairperson
Tule River Gaming Commission
P.O. Box 9232
Porterville, CA 93258

Dear Chairperson Clower:

This letter responds to your request to the National Indian Gaming Commission (NIGC) for the review and approval of the Tule River Tribe Gaming Ordinance adopted January 5, 2004. 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 Gaming Ordinance for review and approval. We look forward to working with you in implementing the IGRA.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Philip N. Hogen".

Philip N. Hogen
Chairman



TULE RIVER TRIBAL COUNCIL TULE RIVER INDIAN RESERVATION

IN THE MATTER OF:

The Tule River Tribal Council approving)
the new Tule River Tribal Gaming Ordinance)
Ordinance with the additions, corrections))
and deletions)

RESOLUTION NO. FY2004-13

BE IT RESOLVED BY THE COUNCIL OF THE TULE RIVER INDIAN TRIBE:

WHEREAS, the Tule River Tribe is governed under a Constitution and Bylaws duly adopted and approved by the Secretary of the Interior on January 15, 1936; and

WHEREAS, Article VI, Section 1 (a) of the Tribal Constitution authorizes the governing body to enter into negotiations with federal, state or local agencies on behalf of the Tribe; and

WHEREAS, that in order to ensure compliance with the National Indian Gaming Commission, additions, deletions were made and proposed to the Tule River Tribal Council after review and recommendations were made by the Tule River Gaming Commission; and

WHEREAS, the proposed changes were addressed and reviewed by the Tule River Tribal Council in which the Tule River Gaming Commission feels that this would update the Tribe's Gaming Ordinance to the current operations of the Gaming Commission; and

THEREFORE BE IT RESOLVED, at a Tule River Tribal Council meeting held on **Monday, January 5, 2004** the Tule River Tribal Council reviewed and accepted the proposed changes, additions, and deletions and incorporated the above-mentioned change to ensure the Tribe's Gaming Ordinance is up to date; and

BE IT FURTHER RESOLVED that this resolution has not been amended or rescinded in any way.

CERTIFICATION

UPON MOTION OF COUNCIL MEMBER **Peter R. Christman**, SECONDED BY COUNCIL MEMBER **Vincent Burrough**, THE FOREGOING WAS ADOPTED BY THE TULE RIVER TRIBAL COUNCIL AT A DULY CALLED MEETING HELD AT **Monday, January 5, 2004**, AT WHICH A QUORUM WAS PRESENT BY THE FOLLOWING VOTES:

AYES: **6**

NOES: **0**

ABSTAIN: **0**

Neil Peyron
NEIL PEYRON, CHAIRMAN
TULE RIVER TRIBAL COUNCIL

Yolanda L. Gibson
YOLANDA L. GIBSON, SECRETARY
TULE RIVER TRIBAL COUNCIL

ATTEST TO:

Yolanda L. Gibson
RECORDING SECRETARY

**TULE RIVER TRIBE
OF THE
TULE RIVER INDIAN RESERVATION**

GAMING ORDINANCE

Revised January 5, 2004

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I. PURPOSE

The Tule River Tribe of the Tule River Indian Reservation, as the beneficial owner of the Tule River Indian Reservation, and acting pursuant to its Constitution in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety and welfare of the Tule River Indian Reservation and the members of the Tule River Tribe, hereby ordains and establishes this Ordinance for the purpose of authorizing and comprehensively and preemptively regulating the terms and conditions under which Class II and Class III gaming may be conducted within the boundaries of the Tule River Indian Reservation.

II. DEFINITIONS

- A. **“Comment”** shall mean any response by the Tribal Council to an item that has been placed on an official Tribal Council meeting agenda. Failure of the Tribal Council to respond to any item within thirty (30) days after it has been placed on an official Tribal Council meeting agenda shall constitute an approval by the Tribal Council for such item.
- B. **“Compact”** refers to the Federal instrument required by the Indian Gaming Regulatory Act, which allows the Tribe to conduct Class III gaming, and is an agreement between the Tribe and the State, which must be approved by the Federal Government.
- C. **“Gaming”** or **“Gambling”** means the offering of any games authorized by the Tule River Tribe Gaming Ordinance, except card games played in private homes in which no person makes money for operating the game other than as a player, and traditional Indian games as defined in the Tule River Tribe Gaming Ordinance.
- D. **“Indian Gaming Regulatory Act,”** (IGRA) refers to P.L. 100-497, 25 U.S.C. Sec. 2701 et seq. which identifies the manner in which Indian Tribes shall conduct gaming and how such gaming is to be regulated.
- E. **“License”** means the written approval of the Tule River Tribe Gaming Commission that authorizes the privilege of conducting gaming or working in gaming within the jurisdiction of the Tule River Tribe to a specific individual and/or a specific entity and/or a specific gaming facility and/or operation.
- F. **“Licensee”** refers to an individual, entity and/or facility, which have received the privilege, in written form, of conducting and/or working in gaming within the jurisdiction of the Tule River Tribe.
- G. **“National Indian Gaming Commission”** or **“NIGC”** means the federal gaming regulatory body created by the Indian Gaming Regulatory Act (Public Law 100-497, 25 U.S.C. Sec. 2701 et seq.), and as that Act may hereafter be amended.
- H. **“Tule River Tribal Council”** means the elected governing body of the Tule River Tribe as established and defined by the Tule River Tribe’s Constitution.
- I. **“Tule River Tribe Gaming Commission”** refers to the regulatory body appointed by the Tule River Tribal Council to be responsible for the regulation of Tribal Gaming within the jurisdiction of the Tule River Tribe.

- J. **“Tule River Tribe Regulatory Gaming Agency”** refers to the regulatory body responsible for the day-to-day responsibilities that are required to be fulfilled by the Tule River Tribe Gaming Commission.
- K. **“Gaming Contractor”** shall mean any person or entity that supplies gaming devices, gaming components, gaming equipment, personnel or services to the Tribal gaming enterprise and includes such resource suppliers as defined in the Compact.
- L. **“Gaming Operation”** means each economic entity that operates games, receives the revenues, issues the prizes, and pays the expenses of the games.
- M. **“Gaming Enterprise”** shall mean any gaming business, event or activity conducted by or under the jurisdiction of the Tribe.
- N. **“Gaming Facility”** shall mean any building or room in which Class II or Class III gaming activities or Gaming Operations occur, or in which the business records, receipts, or other equipment and supplies of the Gaming Operation are maintained, to include structures on the property designed to facilitate the orderly functions of the enterprise.
- O. **“Gaming Resources”** shall mean any goods or services used in connection with gaming activities, including, but not limited to, equipment, furniture, gaming devices and ancillary components, playing cards, gaming consulting services and gaming contractors.
- P. **“Immediate Family”** or **“Related To”** shall mean persons who are the subject individual’s spouse, parents, guardians, siblings, or children (either biological or adopted)
- Q. **“Employee”** has the same meaning as the term is used by the United States Internal Revenue Service. **“Key Employee”** has the meaning defined herein under section F. 1.
- R. **“Reservation”** shall mean all lands under the jurisdiction and control of the Tule River Tribe and its governing body.
- S. **“Tribal Chairperson”** shall mean the person duly elected under the Tribe’s Constitution and Bylaws and serves as the primary spokesperson of the Tribe.
- T. **“Tribal Member”** shall mean any duly enrolled member of the Tule River Tribe.
- U. **“Minimum Internal Control Standards”** or MICS shall mean the Internal Controls established by the National Indian Gaming Commission as published in the Federal Register.
- V. **“Tule River Internal Control Standards”** or TRICS shall mean the Internal Controls established by the Tule River Tribe Gaming Commission and approved by the Tule River Tribal Council.

III. GAMING AUTHORIZED

- A. Class I gaming is defined in the IGRA Section 2703(6) means social games solely for prizes 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.
- B. Class II gaming as defined in the IGRA Section 2703(7)(A) and by regulations lawfully promulgated by the NIGC and the Tule River Tribe Gaming Commission, that now or hereafter may be in effect, is hereby authorized.

- C. Class III gaming as defined in IGRA, 25 U.S.C. Section 2703(8) and by valid regulations promulgated by the NIGC, that now or hereafter may be in effect, is hereby authorized, provided such gaming is also authorized by and consistent with a valid Tribal-State Compact that has been approved by the Secretary of Interior and/or is in compliance with Federal Law.

IV. OWNERSHIP OF GAMING FACILITIES AND/OR ENTERPRISES

The Tule River Tribe of the Tule River Indian Reservation shall have the sole proprietary interest in and the responsibility for the conduct of any gaming facilities and/or enterprise(s) authorized by this Ordinance. The Tule River Tribal Council shall be responsible for ensuring that the Tule River Tribe Gaming Operations are managed appropriately and in a businesslike manner.

V. USE OF GAMING REVENUE

- A. Except as specifically authorized pursuant to Subsection B of this Section, net revenues from Class II and Class III gaming on the Tule River Indian Reservation shall be used only for the following purposes:
1. To fund Tule River Indian Reservation Tribal Governmental operations and programs;
 2. Provide for the general welfare of the Tule River Tribe of the Tule River Indian Reservation and its members;
 3. Promote Tule River Indian Reservation economic development;
 4. Donate to charitable organizations; and/or
 5. Help fund operation of local government agencies.
- B. If the Tule River Tribal Council elects to distribute per capita payments to Tule River Tribe members, it shall authorize such payments in conformity with a plan submitted to and approved by the Secretary of the Interior pursuant to 25 U.S.C. Sec. 2701(b)(3).

VI. GAMING COMMISSION CREATION AND RESPONSIBILITIES

A. Creation of Tule River Tribe Gaming Commission

1. There is hereby created the Tule River Tribe Gaming Commission, which shall consist of three (3) persons who themselves qualify for licensing under this Ordinance. Said members shall serve a term of three (3) years. The terms of Gaming Commissioners shall be staggered. The Tribal Council shall determine and authorize the compensation to be paid to members of the Tule River Tribe Gaming Commission based upon the Tribal Gaming Commission's determination of the time required to be

expended upon Commission duties and the qualifications of the appointed Commissioners.

2. The members of the Tule River Tribe Gaming Commission shall be appointed by the Tule River Tribal Council by resolution. Said appointees shall not be removed during their terms of office except for misconduct, neglect of duties or other acts that would render such persons unqualified for licensure hereunder. An affirmative vote of a simple majority of the Tule River Tribal Council, taken in an open meeting after a duly-noticed hearing at which the member charged with misconduct shall have the right to be heard and may present evidence concerning his/her removal, shall be required to remove a member of the Commission. At the request of the member whose removal is at issue, the hearing may be held in executive session. The Tule River Tribe Gaming Commission also may elect to receive in executive session any evidence public disclosure of which might compromise any on-going law-enforcement investigation, or which might jeopardize any privilege or immunity possessed by the Tule River Tribe Gaming Commission. The Commissioner, whose removal is at issue, shall be allowed representation by legal counsel or volunteers to speak in favor on his/her behalf before the Tribal Council at his/her own expense.
3. There shall be a Chairperson, Vice-Chairperson, and Secretary/Treasurer of the Tule River Tribe Gaming Commission, elected from its membership, who shall be appointed for a term of one year by simple majority vote of Tule River Tribe Gaming Commission.
4. The following shall not serve as Gaming Commissioners:
 - a. Persons employed in or in conjunction with the management, supervision, or conduct of any gaming activity on the Reservation, or until at least two (2) years have passed since that employment;
 - b. Persons related to any gaming supplier or gaming contractor, including any principal thereof or persons related to any associated independent contractor;
 - c. Members of the Tribal Council during his/her term thereof; and
 - d. A person who is not a Tribal Member.
 - e. A person who cannot obtain or maintain a valid license issued by the Tule River Tribe Gaming Commission.

B. Duties and Responsibilities of the Gaming Commission

The following are the duties and responsibilities that are required of the Tule River Tribe Gaming Commission in order to fulfill its regulatory requirements as identified in the **Tule River Tribe Gaming Ordinance** and encouraged by the National Indian Gaming Commission, in Bulletins, the **Indian Gaming Regulatory Act of 1988** and

Amendments, MICS, TRICS and Compact, the Tule River Tribe Gaming Commission shall:

1. Be responsible for the issuance, suspension, revocation and renewal of gaming licenses for primary management officials, Key Employees, all other Employees and vendors/service providers who wish to have an employment and/or business relationship with Tule River Tribe Gaming Operations, Gaming Commission, or Regulatory Agency, upon completion of background investigations;
2. Ensure that background investigations are conducted upon those individuals and entities that have an employment or business relationship with Tule River Tribe Gaming Operations for purposes of licensing;
3. Be responsible for the submission of applicable licensing applications and investigations to the appropriate agencies;
4. Be responsible for ensuring that only those individuals and entities that have an employment or business relationship with Tule River Tribe Gaming Operations, are suitable to receive a Tule River Tribe Gaming License;
5. Be responsible for the secure storage and maintenance of all gaming applications, reports and documents belonging to the Tule River Tribe Gaming Commission;
6. Be responsible for the issuance of Gaming License to each gaming facility within the jurisdiction of the Tule River Tribe;
7. Be responsible for ensuring that all Tule River Tribe Gaming Operations are in compliance with all applicable health, safety and environmental laws and regulations;
8. Be responsible for ensuring that an annual independent audit and/or any additional audits of the Gaming Operations that the Commission deems necessary, is performed upon all Gaming Operations within the jurisdiction of the Tule River Tribe and that the applicable audits are submitted to the appropriate agencies pursuant to applicable law, such as the National Indian Gaming Commission;
9. Ensure that audits are performed and submitted to the Gaming Commission on businesses that do \$25,000 or more business with Gaming Operations within the jurisdiction of the Tule River Tribe within a one-year time period;
10. Ensure that gaming revenues are used according to applicable Tribal and Federal law unless otherwise guaranteed by the Tribal Council;
11. Promulgate Tribal Gaming Regulations;
12. Ensure compliance with applicable Tribal and Federal Laws, Codes, Regulations, or Compact;

13. Communicate and work with Tribal, outside law enforcement agencies and regulatory agencies regarding gaming regulation, so as to protect the assets and the integrity of the Gaming Operations within the jurisdiction of the Tule River Tribe;
14. Ensure that investigations are performed upon alleged and actual gaming violations to ensure that appropriate enforcement actions are taken and appropriate incident reports are made;
15. Be responsible to conduct hearings, take and review evidence and testimony in regards to gaming licensing and alleged violations of gaming laws and regulations;
16. Establish and/or approve internal control standards that will protect the assets and the integrity of the Gaming Operations within the jurisdiction of the Tule River Tribe and ensure that they are complied with;
17. Ensure that random and regularly scheduled audits are performed on all areas of the Gaming Operations within the jurisdiction of the Tule River Tribe;
18. Establish and/or approve rules for Class II and Class III games conducted within the jurisdiction of the Tule River Tribe;
19. Be responsible for the on-going inspection of all gaming equipment and all gaming areas;
20. Establish and/or approve requirements for the testing of all gaming machines;
21. Be responsible for hearing patron disputes in the event that Gaming Management is unable to initially resolve the dispute;
22. Be the primary contact entity for all outside Gaming Regulatory Agencies;
23. Be responsible for the review and approval of the budget of the Agency and Commission prior to submission for final approval by the Tule River Tribal Council;
24. Supervise the Executive Director of the Agency;
25. Establish and collect fees associated with costs related to licensing, performing background investigations and testing of equipment;
26. Solely responsible for the levying of fines due to gaming violations;
27. Inspect, copy, audit, impound and examine any gaming documents and records without notice;

28. Issue subpoenas for purposes of receiving relevant information concerning gaming, which cannot be retrieved in any other manner;
29. Apply for injunctive or declaratory relief in order to protect the assets and integrity of the Gaming Operations within the jurisdiction of the Tule River Tribe;
30. Enter into contracts for professional assistance, such as accountants, investigators and legal services;
31. Exclude individuals and create a list of those who are and should be excluded from the Gaming Facility;
32. Protect confidentiality of individuals and entities as identified within applicable law;
33. Provide monthly reports, or as required to the Tule River Tribal Council;
34. Shall be responsible for having final approval or denial authority over all Agency and Gaming Operations policies and procedures, subject to review by the Tule River Tribal Council;
35. Delegate authority as is required and in compliance with applicable law, regulations;
36. The Tule River Tribe Gaming Commission may create at its discretion an Internal Investigative Department for the purpose of conducting criminal investigations, regulatory violations, or non-compliance issues, subject to approval by the Tule River Tribal Council.

C. Gaming Commission Authority and Hearing Responsibilities

1. The Gaming Commission shall carry out its statutory duties and responsibilities in a manner that allows the Gaming Commission to act as a Regulatory Body by means of the adoption of Standard Operating Procedures for the Tule River Tribe Gaming Commission, which will identify the manner in which the Commission manages its formal business and makes its decisions.
2. The Gaming Commission shall supervise the Executive Director and shall stay free from Personnel matters of the Agency and shall act as the hearing and appeals body of personnel matters that are unable to be resolved by the Executive Director;
3. The Gaming Commission shall be allowed to delegate day-to-day responsibilities and functions of the Commission to the Agency;
4. The Gaming Commission shall be responsible for any outside contracts that are required for professional services for the Commission and the Agency;

5. The Gaming Commission shall act as the final decision making body for all gaming regulatory issues that may arise in the event of disagreements or challenges to the Agency initial decisions, including licensing and all other delegated responsibilities, identified within this Ordinance prior to any appeal to Tule River Tribal Council or its designee.
6. The Gaming Commission shall be the primary contact and representative for purposes of communication with all outside gaming regulatory agencies in regard to gaming regulatory matters.
7. The Tule River Tribe Gaming Commission, independent of the Tribal Council, shall have full authority to monitor and enforce compliance with this Ordinance, Codes and its Regulations, to investigate and act to prevent any violation(s) thereof.
8. All final decisions concerning gaming regulatory issues, such as licensing and compliance with applicable gaming laws, of the Tule River Tribe Gaming Commission shall be subject to the standard of preponderance of the evidence, that is, more likely than not the information is accurate, based upon the evidence.
9. The Tule River Tribe Gaming Commission shall ensure that the Tule River Tribal Council is provided the opportunity to review, Comment, and approve upon all regulations and TRICS adopted by the Tule River Tribe Gaming Commission, prior to adoption.
10. The Tule River Tribe Gaming Commission shall ensure that individuals/entities seeking to challenge the decisions of the Agency receive due process by means of an appeal procedure that provides for the Gaming Commissioners to sit as the hearing body.

D. Creation of a Tule River Tribe Gaming Regulatory Agency

1. There shall be a Tule River Tribe Gaming Regulatory Agency (to be referred to as Agency) implemented in order to carry out the day-to-day responsibilities that are required to be fulfilled by the Tule River Tribe Gaming Commission.
2. The Agency shall be composed of (five) primary departments, which shall include Administration, Surveillance, Compliance, Background Investigation, Internal Audit and any other department deemed necessary to the functioning of the Agency.
3. The Agency Staff shall be held to the same standards as the Gaming Commissioners and will be required to uphold Tribal, Federal and all applicable laws, Codes and regulations.
4. The Agency shall be structured so that there is an Executive Director responsible for the day-to-day operations of the Agency.

5. The Executive Director shall be under the direct supervision of the Tule River Tribe Gaming Commission.
6. The Executive Director shall have direct supervision of those individuals who are directors or primary supervisors over the various departments of the Agency and those administrative support staff that shall be identified by the Tule River Tribe Gaming Commission.
7. The Executive Director shall be the primary link between the Agency Staff and the Commission and shall be responsible for all communications between the Agency Staff and the Commission.
8. The Executive Director shall be responsible for all administrative functions of the Agency, including, without limitation, the personnel issues that are a normal part of employment.
9. The Executive Director shall ensure that the Gaming Commission is kept aware of all information and activities of the Agency Staff.
10. The Executive Director shall be responsible for the budget of the Agency as well as the submission of said budget to the Commission for review and approval.
11. The Executive Director shall be responsible for the efficient operation of the Agency.

E. Protection of the Environment and Public Health and Safety

Class II and Class III gaming facilities on the Tule River Indian Reservation shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

F. Licenses for Key Employees and Primary Management Officials

The Tule River Tribe Gaming Commission by means of the Tule River Tribe Gaming Commission, shall ensure that the policies and procedures set out in this section are implemented with respect to Key Employees and primary management officials employed at any Class II and/or Class III gaming enterprise operated on Indian lands within the jurisdiction of the Tule River Tribe.

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;
 - d. Any position formally designated by the Tule River Tribe Gaming Commission to be considered a Key Employee; and/or

2. Primary Management Official means:

- a. The person having management responsibility for a management contract;
- b. Any person who has authority to:
 - (1) Hire and fire employees; or
 - (2) Set up working policy for the Gaming Operation.
- c. The chief financial officer or other person who has financial management;
- d. Any position formally designated by the Tule River Tribe Gaming Commission as such; and/or

A log of Key Employee and Management Officials shall be kept by the Gaming Commission and updated annually.

APPLICATION FORMS

- 1. The following notice shall be placed on the application form of a Key Employee or a primary management official before the form is filled out by an applicant for a gaming license for purposes to work within or to be associated with the Tule River Tribe Gaming enterprises and/or Gaming Operations.

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. Sec. 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 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, Tule River Tribe Gaming Commission, 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 notices will result in the tribe 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. 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. (18 U.S.C. Sec. 1001).

BACKGROUND INVESTIGATIONS

1. The Tule River Tribe Gaming Commission or its designated Agency shall request from each primary management official and from each Key Employee the following information:

- a. Full name, other names used (oral or written), Social Security number(s), birth date, place of birth, citizenship, gender, and all languages spoken or written;
- b. Currently and for the previous ten years; all business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers 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 Subsection;
- d. Current business and residence telephone numbers;
- e. A description of any existing and previous business relationships with the Tule River Tribe or any other Indian tribe, 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 every 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;

i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within five 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 ten years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this Subsection, the criminal charge, the name and address of the court involved and the date and disposition;

k. The name and address of each 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 Tule River Tribe Gaming Commission may deem relevant under the circumstances; and

n. Fingerprints consistent with procedures adopted by the Tule River Tribe Gaming Commission or its designated Agency in accordance with 25 C.F.R. §522.2(h).

2. The Tule River Tribe Gaming Commission and/or its designated Agency shall conduct an investigation sufficient to make a determination under Subsection G. below. In conducting a background investigation, the Tule River Tribe Gaming Commission and/or its Agency Staff shall maintain the confidentiality of each individual interviewed in the course of the investigation.

G. Eligibility and Suitability Determination

The Tule River Tribe Gaming Commission and/or its designated Agency shall review an applicant'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. Should the Tule River Tribe Gaming Commission and/or its designated Agency determine that the issuance of a license of an individual to be employed within the Gaming Operation pose(s) 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 Operation shall not employ that person in a Key Employee or primary management official position. The Tule River Tribe Gaming Commission shall establish regulations that identifies suitability criteria of an individual to obtain or maintain a Tule River Tribe Gaming License.

H. 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 authorized by this Ordinance, the Tule River Tribe Gaming Commission shall forward to the National Indian Gaming Commission a completed application for licensing and conduct the background investigation to make a determination referred to in Subsection F of this Section.
2. The Tule River Tribe Gaming Commission shall forward the report referred to in Subsection I of this Section 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.
3. The Gaming Operation shall not employ as a Key Employee or primary management official a person who does not have a Tule River Tribal Gaming License.

I. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in Subsection F of this Section, the Tule River Tribe Gaming Commission shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:
 - a. Steps taken in conducting the background investigation;
 - b. Results obtained;
 - c. Conclusions reached; and
 - d. The bases for those conclusions.
2. The Tule River Tribe Gaming Commission shall submit, with the report, a copy of the eligibility determination made under Subsection G of this Section.
3. If a license is not issued to an applicant, the Tule River Tribe Gaming Commission:
 - a. Shall notify the National Indian Gaming Commission; and
 - b. 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.

4. With respect to Key Employees and primary management officials, the Tule River Tribe 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 or denial of employment.

J. Granting a Gaming License For a Key Employee and a Primary Management Official and the Role of the NIGC

The Tule River Tribe Gaming Commission shall promulgate regulations and adopt procedures for the internal requirements needed in order to grant a Tule River Tribal Gaming License that shall be used in conjunction with the following:

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tule River Tribe 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 Tule River Tribe 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, as provided herein.

2. The Tule River Tribe Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission 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 Subsection H.1. of this Section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tule River Tribe Gaming Commission with a statement itemizing its objection(s) to the issuance of a license to a Key Employee or to a primary management official for whom the Tule River Tribe Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tule River Tribe Gaming Commission shall reconsider the application, taking into account the objection(s) itemized by the National Indian Gaming Commission. The Tule River Tribe Gaming Commission shall make the final decision whether to issue a license to such applicant as provided herein.

K. Licensing Actions

1. The Tule River Tribe Gaming Commission shall have the authority to issue separate licenses for each Gaming Facility, Gaming Operation and/or Gaming Enterprise within the jurisdiction of the Tule River Tribe;

2. The Tule River Tribe Gaming Commission shall have the authority to designate and classify the types of Licenses that are to be issued to individuals and to Gaming Facilities;

3. The Tule River Tribe Gaming Commission shall have the authority to issue gaming licenses for purposes of Class II and Class III gaming within the jurisdiction of the Tule River Tribe.

4. The Tule River Tribe Gaming Commission shall be the final decision maker in regard to all issues concerning gaming licenses within the jurisdiction of the Tule River Tribe prior to any appeal to the Tule River Tribal Council or its designee.

L. Appeals

1. The Tule River Gaming Commission shall provide due process for those who disagree with the decisions of the Agency and shall issue procedures that specify timelines and requirements for the appeals process.

2. The individuals or entities that choose to challenge a decision of the Agency may appeal to the Tule River Tribe Gaming Commission.

3. The Gaming Commission shall provide a hearing to the individual or entity that disagrees with a decision of the Agency, if the individual or entity submits a written request to the Tule River Tribe Gaming Commission as provided by regulation.

4. In order for the Tule River Tribe Gaming Commission to overturn a decision of the Agency, the burden shall be upon; the individual or entity requesting the hearing to show, by clear and convincing evidence, that:

a. The Agency decision was outside the scope of authority of the Agency; and/or

b. Information was discovered that was previously unavailable that would change the outcome of the original decision; and/or

c. The original decision violated the Constitutional Rights of the individual and/or entity; and/or

d. The decision was arbitrary or capricious.

5. In the event an individual or entity chooses to challenge the Tule River Tribe Gaming Commission Appellate decision, the individual or entity may appeal to the Tule River Tribal Council or their designee. The above burden and showings listed above shall be shown in order to overturn a decision of the Tule River Tribe Gaming Commission.

VII. AMENDMENTS

The Tule River Tribal Council is hereby delegated the authority to amend this Ordinance in any manner deemed appropriate to protect what the Tule River Tribal Council determines to be in the best interests of the Tule River Tribe; provided, that the Tule River Tribal Council shall have no authority to enact any amendment to this Ordinance that is less restrictive than the original terms of this Ordinance, or that would constitute a violation of federal law or would be inconsistent with the terms of an approved Tribal-State Class III compact that is in effect.

VIII. SEVERABILITY

The provisions of this Ordinance are severable. If any part or provision hereof is held void by Tribal Court, federal court or federal agency, the decisions of the court or agency so holding shall not affect or impair any remaining provision of the Ordinance.

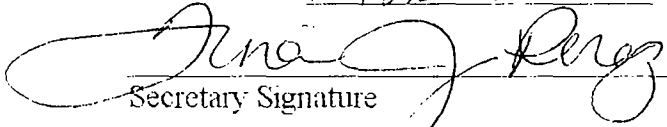
IX. REPEAL

To the extent that they are inconsistent with this Ordinance, all Gaming Ordinances previously enacted or amended by the Tule River Tribal Council are repealed.

CERTIFICATION

This is to certify that the foregoing Ordinance was adopted on 01-05-04, at a duly-called meeting of the Tule River Tribal Council at which a quorum was present, by a vote of 6 in favor, 6 opposed and 0 abstaining.

Resolution #: F42004-13


Secretary Signature

01/05/04
Date