

NATIONAL
INDIAN
GAMING
COMMISSION

MAR 22 1995

John Ross, Chief
United Keetoowah Band of Cherokee
Indians in Oklahoma
P.O. Box 746
Tahlequah, Oklahoma 74465-0746

Dear Chief Ross:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on November 25, 1994, for the United Keetoowah Band of Cherokee Indians in Oklahoma (the Band). 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, this letter 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. At the current time, it is the understanding of the NIGC that the Band does not have any lands that meet that definition. Therefore, until such time as it is determined that the Band holds lands that meet the definition in the IGRA, the Band is not authorized to conduct class II or class III gaming.

Thank you for submitting the ordinance of the Band for review and approval. The NIGC staff and I look forward to working with you and the Band in implementing the IGRA once the Band acquires Indian lands.

Sincerely yours,



Harold A. Monteau
Chairman

UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA

P.O. BOX 746 TAHLEQUAH, OKLAHOMA 74465-0746
TELEPHONE: (918) 456-5491 FAX (918) 456-9601

JOHN ROSS
CHIEF

JIM HENSON
ASSISTANT CHIEF



JIMMIE LOU WHITEKILLER
SECRETARY

CLARA PROCTOR
TREASURER

R E S O L U T I O N

05 November 1994

#94-UKB-28

WHEREAS: THE UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA is a federally recognized Band of Indians organized and incorporated pursuant to the Oklahoma Indian Welfare Act (49 Stat 1967); the Act of August 10, 1946 (60 Stat 976); and, the Indian Reorganization Act (48 Stat 984) insofar as that Act is applicable to Oklahoma Indians; and,

WHEREAS: Article III, Section I, of the Constitution and By-Laws of THE UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA provides that the objectives of the Band include securing for its members the benefits, rights, privileges, and powers provided for under the above referenced acts of the Congress of the United States of America; and,

WHEREAS: Article III, Section 2, of said Constitution and By-Laws provides that the Band shall secure the benefits, rights, privileges, and powers as provided for by any laws of the United States now existing or that may hereafter be enacted for the benefit of Indians for its members; and,

WHEREAS: THE UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA in pursuit of the goals, desires to improve the economic conditions of its members.

COUNCIL MEMBERS

ALLOGAN SLAGLE
CANADIAN DISTRICT

JIM PROCTOR
FLINT DISTRICT

ROBERTA SMOKE
SALINE DISTRICT

EMMA SUE HOLLAND
COOWEESCOOWEE DISTRICT

RICHARD MANUS
GOINGSNAKE DISTRICT

CHARLIE BIRD
SEQUOYAH DISTRICT

ADALENE SMITH
DELAWARE DISTRICT

SUSAN ADAIR
ILLINOIS DISTRICT

MOSE KILLER
TAHLEQUAH DISTRICT

“RESPECT FOR OUR ELDERS”

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WHEREAS: It is in the best interest of the UKB to adopt a Gaming Ordinance to be approved by the **NATIONAL INDIAN GAMING COMMISSION** pursuant to the **INDIAN GAMING REGULATORY ACT, 25 U.S.C. SS et seq.**

NOW, THEREFORE, BE IT RESOLVED that the attached Gaming Ordinance of 1994 is hereby adopted by the Council of **THE UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA (UKB).**

NOW, THEREFORE, BE IT FURTHER RESOLVED that the **NATIONAL INDIAN GAMING COMMISSION** is requested to approve said Gaming Ordinance pursuant to federal law and regulations.

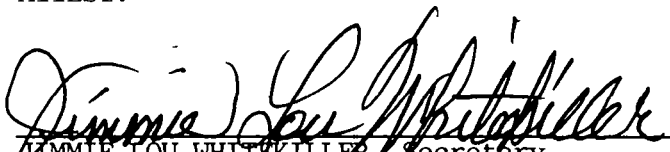
CERTIFICATION

I hereby certify that the foregoing Resolution #94-UKB-28 was approved by the BIA-recommended Council of **THE UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA (UKB)** during a called, noticed, and convened regular meeting for business on the 5th day of November, 1994, with 7 Members present to constitute a quorum and by a vote of 7 For, 0 Opposed, and 0 Abstentions.



MOSE KILLER, Chairman Pro Tempore

ATTEST:



JIMMIE LOU WHITEKILLER, Secretary

THE UNITED KEETOOWAH BAND OF CHEROKEE
INDIANS IN OKLAHOMA

CLASS II GAMING ORDINANCE

I. PURPOSE

The Council of THE UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA (hereinafter "UKB") empowered by the UKB Constitution to enact ordinances, hereby enacts this ordinance in order to set the terms for class II gaming operations on UKB lands.

II. Gaming Authorized

Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703 (7)(A) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. - 502.3 (as published in the Federal Register at 57 FR 12382-12393, 09 April 1992) is hereby authorized.

III. 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.

IV. Use of Gaming Revenue

A. Net revenues from class II gaming shall be used only for the following purposes: to fund UKB government operations and programs; provide for the general welfare of the UKB and its members; promote UKB economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. 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).

V. Audit

A. The Tribe 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.

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 that is described in subsection A. above.

VI. Protection of the Environment, Public Health and Safety

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

VII. Licenses for key Employees and Primary Management Officials

The Tribe 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 gaming enterprise operated on UKB lands:

A. Definitions

For the purpose 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; or

- (c) If not otherwise included, the four most highly compensated persons in the gaming operation.

2. Primary management official means

- (a) The person having management responsibility for a management contract;
- (b) Any person who has authority:
 - (1) To hire and fire employees; or
 - (2) To set up working policy for the gaming operation; or
- (c) The chief financial officer or other person who has financial management responsibility.

B. Application Forms

- 1. 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 with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigation 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.

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

- a. Complete a new application form that contains a Privacy Act notice; or
- b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

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

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.)

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

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

C. Background investigations

1. The UKB shall request from each primary management official and from each key employee all of the following information:

- a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- b. Currently and for the previous five years: business and employment positions held, ownership interest 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 section;
- d. Current business and residence telephone numbers;
- e. A description of any existing and previous business relationship with Indian tribes including ownership interest in those businesses;
- f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interest in those businesses;
- g. 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;
- 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 if any;
- i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten 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 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- k. 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;
- l. A current photograph;
- m. Any other information the UKB deems relevant; and

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

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

D. Eligibility Determination

The UKB 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 UKB 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 official position.

E. 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 UKB shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of the section.

2. The UKB shall forward the report referred to in subsection F 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 license after 90 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe 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 a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The basis for those conclusions.

2. The UKB shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.

3. If a license is not issued to an applicant, the UKB:

- 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 UKB 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.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the UKB 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 UKB has provided an application and investigative report to the National Indian Gaming Commission, the UKB may issue a license to such applicant.

2. The UKB 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 paragraph G.

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 UKB with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the UKB has provided an application and investigative report to the National Indian Gaming Commission, the UKB shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The UKB shall make the final decision whether to issue a license to such applicant.

H. License Suspension

1. If, after the issuance of a gaming license, the UKB receives from the National Indian Gaming Commission reliable information indicating that a key employee or primary management official is not eligible for employment under subsection D. above, the UKB shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The UKB shall notify the licensee of a time and place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the UKB shall decide to revoke or reinstate a gaming license. The UKB shall notify the National Indian Gaming Commission of its decision.

VIII. License Location

The UKB shall issue a separate license to each place, facility, or location on UKB lands where class II gaming is conducted under this ordinance.

IX. Repeal

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

ADDITIONAL SUBMISSION REQUIREMENT

1. DESCRIPTION OF PROCEDURES FOR CONDUCTING BACKGROUND INVESTIGATIONS.

It is the intent of the UKB to contract with a security/investigative firm to do the verifications of the information contained in the applications of those key employees and primary management officials as required in the UKB Gaming Ordinance. Once the information has been verified and a report made to the UKB, the Council of the UKB shall make the determination of suitability in accordance with the UKB Gaming Ordinance. The UKB Council shall create a standing Gaming Committee of the Council which shall have the responsibility of conducting and causing to be conducted the background investigations; reviewing and approving the investigative work done; and obtaining and processing fingerprints. The UKB Council shall report the results of the background investigation to the National Indian Gaming Commission and make the suitability determinations. The applicants for the key employee and primary management positions, as designated in the UKB Gaming Ordinance, shall be initially reviewed by the Council's Gaming Committee and a Preliminary selection shall be made based upon qualifications for a position. Those applicants selected shall then under go a background investigation.

The investigative procedures to be performed shall include the following:

1. Verify by written or oral communication information submitted by applicant.
2. Inquire into the applicant's prior activities, criminal records, if any, and reputation, habits and associations; interview a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred in order to provide a basis for the UKB Council to make a finding concerning the eligibility for employment in a gaming operation.
3. Document the disposition of all potential problem areas noted and disqualifying information obtained.

The investigative report shall include the following:

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

2. DESCRIPTION OF PROCEDURES TO ISSUE TRIBAL LICENSES TO PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES.

The procedures for granting a license are contained in the UKB Gaming Ordinance at Section G. The license document shall be in the form of a drivers license with a picture identification as well as a code number. The UKB shall consult with security experts to design the license so that it cannot be duplicated. The licensee will be required to display the license while at the gaming location.

3. DESCRIPTION OF PROCEDURES FOR RESOLVING DISPUTES BETWEEN THE GAMING PUBLIC AND THE UKB OR MANAGEMENT CONTRACTOR.

Disputes with the gaming public will primarily be issues of prizes and payments. The UKB does not anticipate that these kinds of disputes will arise but if they do the UKB's manager of the gaming operation will be the first place to resolve the dispute and if the dispute is not resolved by the manager then the UKB Gaming Committee will resolve the matter. The success of the gaming operation is dependent on goodwill with the gaming public. Disputes of an organizational nature or contract nature will be resolved between the individual and the manager of the UKB Gaming Committee. If resolution of the dispute is not reached by the individual and the UKB Gaming Committee, binding arbitration will be used and the local arbitration procedures will be used.

4. DESIGNATION OF AN AGENT FOR SERVICE.

The Chief of the UKB, as designated in the UKB Constitution shall be the agent for service and the UKB offices will be the official address for service.

5. IDENTIFICATION OF A LAW ENFORCEMENT AGENCY THAT WILL TAKE FINGER PRINTS AND DESCRIBE PROCEDURES FOR CONDUCTING A CRIMINAL HISTORY CHECK BY A LAW ENFORCEMENT AGENCY.

The UKB will consult with the Bureau of Indian Affairs (BIA) investigative officer and implement the procedures that are recommended by him. The BIA has had experience in this area since the tribes have been involved in gaming.

6. COPIES OF ALL TRIBAL GAMING REGULATIONS.

The UKB enacted a gaming ordinance in 1990 which is modified by the current gaming ordinance submitted to the National Indian Gaming Commission. The ordinance is included with this submission.