

## CHAIRMAN'S REPORT



Chairman Delores Pigsley

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is not. It is the NIGC's **intent** to impose a fine on the tribe.

The implications of the NIGC's NOV against the Siletz Tribe are so profound and have generated such concern among tribes nationwide that the National Indian Gaming Association, at its convention in Billings, Mont., on Aug. 16, took an affirmative stand in support of the Siletz Tribe.

By unanimous vote, NIGA members adopted a resolution that "authorized and directed" the chairman and executive director of NIGA "to take any appropriate action necessary to intervene in the NIGC's administrative proceedings, including the filing of an amicus brief in any litigation in federal court in support of the Siletz Tribe over the NIGC's authority to issue its NOV to the Siletz Tribe."

Earlier, during the morning session, NIGA's Chairman Rick Hill, Vice-Chairman Danny Tucker, and Political Analyst John Tahsuda each pointed out that what NIGC has done to the Siletz Tribe is an infringement on tribal sovereignty. All three admonished NIGA members that if not successfully challenged, the Siletz case has the potential of having an adverse impact on all tribes. As Chairman Hill said, "Harm to one is harm to us all."

Chairman Hill commended Franklin Ducheneaux for his legal analysis of NIGC's authority and for helping to keep NIGA aware of the dangers involved in NIGC's invading the sovereignty of Indian tribes.

Tahsuda commented that immediately following my testimony before the Senate Committee on July 26, Committee Chairman Ben Nighthorse Campbell pointed his finger directly at NIGC Chairman Monte Deer and asked, "Are you listening?" Some interpreted this as a rebuke of the NIGC chairman.

In his testimony before the Senate Committee, NIGA Chairman Hill also made statements that are relevant to the Siletz issue. "The primary regulatory authority for Indian gaming," he said, "has always been accepted as residing within the Indian nations as a matter of their inherent sovereign governmental powers. There has not been any legislation amending the Indian Gaming Regulatory Act (IGRA) to grant greater regulatory authority to the NIGC, and without such authority, it is unclear how the NIGC can legitimately usurp such authority to itself."

The Aug. 16 NIGA resolution, unanimously adopted by the member tribes, sets forth the reasons underlying NIGA's action. For your information, I would like to quote from selected parts of that resolution:

- ◆ "The unlawful invasion of the rights of one Indian nation arising from its gaming activities constitutes a threat to the rights of all Indian nations"
- ◆ "The cost of 'comping' in Chinook Winds Casino is not paid from net gaming revenues as defined and regulated by IGRA, but as a part of the operating expenses of the casino"
- ◆ "The practice of 'comping' or providing complimentary services and benefits of a gaming enterprise is a well-accepted and widespread business practice in the gaming industry"
- ◆ "Many Indian tribal gaming enterprises engage in 'comping' as a marketing, advertising, and public relations tool to enhance the profitability of their gaming enterprise, and pay for the cost of such 'comping' as a part of the enterprises' operating expenses"
- ◆ "IGRA confers no power on NIGC to impose business requirements or limitations on Indian gaming enterprises or to substitute its business judgement for that of the tribe and its management authorities"
- ◆ "If NIGC is permitted to force tribal gaming enterprises to forego or limit 'comping' expenses as a reduction of 'net

gaming revenues,' it may force any operating cost reduction practices on such enterprises"

- ◆ "In issuing its NOV to the Siletz Tribe, NIGC has taken the position that it has power to enforce the provisions of tribal-state compacts, which power is not conferred upon it by IGRA"
- ◆ "NIGC issued its NOV to the tribe based upon raw, unaudited data provided by the Tribal Gaming Commission and, without further auditing or investigation, issued its NOV and posted this information on its web page"
- ◆ "This rush to unauthorized judgement and posting on the Internet has wrongfully accused the Tribal Council members of the tribe and caused them public and tribal embarrassment"
- ◆ "These unauthorized actions of the NIGC represent a threat to all Indian tribes engaged in gaming"

In addition to directing the chairman and executive director to take appropriate action, "including the filing of an amicus brief in federal court," the resolution calls for NIGA to make clear to NIGC "that IGRA doesn't authorize it to control business-making policies of tribal gaming enterprises." It further "calls upon the NIGC to explain the authority it derives from IGRA to enforce the provisions of a Class III tribal-state compact."

As chairman of the Siletz Tribe, I have been saddened by the fact that a number of our own tribal members had joined NIGC in a rush to judgement and have been making public statements that have been detrimental not only to the Siletz Tribe but to Indian tribes and Indian gaming in general. I am pleased, however, that the Siletz Tribal Council is no longer standing alone.

In addition to the affirmative action taken unanimously by NIGA member tribes in adopting the resolution, other tribes are stepping forward to support the Siletz Tribe on this issue.

John McCarthy, executive director of the Minnesota Indian Gaming Association representing 11 tribes, and Kurt Lugar, representing the Great Plains tribes, told me that their intertribal organizations have adopted similar resolutions in support of the Siletz Tribe in our struggle against the unwarranted actions of the NIGC. I anticipate other tribes will join us in this struggle.