

NOTICES

Editor's note: In the ongoing effort to protect the interests of Indian Country, the National Indian Gaming Association recently asked its member Tribes to contact the Obama administration about the actions of the National Indian Gaming Commission.

Presented below is the memo from NIGA to the Tribes and at right is Siletz Tribal Chairman Delores Pigsley's subsequent letter to President Obama.

April 3, 2009

President Barack Obama
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Ken Salazar
Secretary of the Interior
Department of the Interior
1849 C St. NW
Washington, DC 20240

Re: National Indian Gaming Commission

Dear President Obama and Secretary Salazar:

On behalf of the Confederated Tribes of Siletz Indians, I would like to congratulate you on your election and appointment, respectively. President Obama has set a very positive tone for the new Administration and Indian country by pledging to respect Indian sovereignty and honor Indian treaties, and your appointment of Indian people to key White House and agency position is a great step forward. We are very hopeful that Hillary Tompkins will soon be sworn in as Solicitor of the Interior and that you will soon name an Assistant Secretary for Indian Affairs.

We write concerning the National Indian Gaming Commission. As you know, the Chairman of the National Indian Gaming Commission is holding more than three years past his term and there is a vacancy at the Associate Commissioner level. We request, with all respect, that you act quickly to name a new NIGC Chairman and Commissioner. After all, Indian gaming is the largest economic activity in Indian country, with roughly \$26 billion in gross revenues, generation more than \$8 billion in Federal taxes and tax savings and creating more than 650,000 jobs (considering the multiplier effect).

In the meantime, we ask that you appoint an acting Chairman of the NIGC to bring about the much-hoped-for change that the Administration promises. For the past several years, we have struggled to work with the NIGC as top-down Washington-based policies are imposed upon tribal governments around the country, without regard to the Tribal-State compacts that we have negotiated with our respective states. The hold-over NIGC is continuing to churn out policies at odds with the purpose of the Indian Gaming Regulatory Act to build strong tribal governments, promote tribal economic development and self-sufficiency.

Although we have requested that the NIGC follow the laws on Indian preference in hiring for the Interior agencies that serve Indian country, the NIGC continues to make new hires without regard to the statutory requirement. Moreover, the NIGC is in the process of creating new regional offices and staffing those offices with persons who reflect the current Chairman's policy preferences.

NIGC continues to maintain that it is not required to follow the rules for other agencies, including the Bush executive directive to stop new regulations on November 1 and the Obama executive directive to wait for the review by an Obama appointee to issue new regulations after January 20. Please put a stop to this and ask the agency to start an appropriate transition policy and caretaker function until a new acting Chairman can be appointed.

As to the new Administration appointees, with all respect, we call upon you to ensure that under your appointees the NIGC will act with respect for tribal governments by adhering to the following:

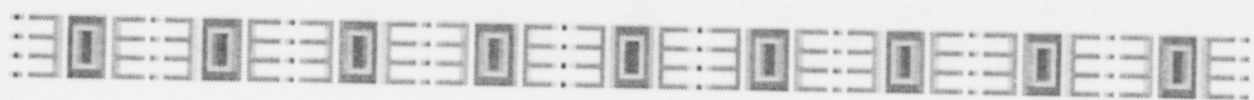
- The recognition of tribal government, tribal law-making prerogatives and tribal regulatory and licensing authority in IGRA;
- Indian preference in hiring;
- Government-to-government consultation under Executive Order 13175;
- Respect for tribal government and law-making authority during agency rule-making as mandated by Executive Order 12866;
- The Unfunded Mandates Act;
- The Federal Advisory Committee Act; and
- The Regulatory Flexibility Act.

The NIGC should also adhere to the principles of respect for tribal governments and Indian sovereignty reflected in the Constitution and to the full extent practicable, the NIGC should work with Indian tribes on a basis of mutual respect and consent with regard to its regulations under IGRA.

We also call upon the new NIGC appointees to review the top-down Washington centric policies, including the Class II regulations and facility licensing regulations, that NIGC put in place in 2008 and to replace those policies with a new policy of engagement with Indian tribes that emphasizes respect for tribal self-government. After all, honoring our treaties means first and foremost respect for tribal governments.

Thank you for your thoughtful consideration.

Cc: Chairman Dorgan
Chairman Rahall



To: NIGA Member Tribes
Fr: Ernest L. Stevens Jr., Chairman
Mark Van Norman, Executive Director
Jason Giles, Deputy Executive Director
Date: March 27, 2009
Re: NIGC Transition

While the Obama Administration is in a time of transition, the National Indian Gaming Commission continues to move forward collecting comments on new regulatory proposals, developing budgets for outlying years, hiring key personnel and reorganizing regional offices, with very little meaningful consultation.

Until a new NIGC Chairman is appointed, the NIGC should halt its work on new regulations, stop hiring new personnel and stop re-organizing regional offices.

In our view, the new Administration must change the culture at the NIGC from a top-down mandatory rules bureaucracy to a more flexible agency, respectful of our tribal self-government, elected leaders and tribal regulators. In the 2006 NIGC legislation, its fees were increased from a \$12 million cap to a \$0.80 per \$1,000 of gross revenues. At the same time, NIGC was authorized to provide training and technical assistance. Thus, in our view, the NIGC should transform itself from a Washington bureaucracy to a user friendly training and technical assistance provider, voluntary compliance with essential regulations should be maximized, and respect for tribal law and Indian sovereignty must increase.

Under its new leadership, we must call upon the NIGC to follow basic principles such as adherence to:

- The recognition of tribal government, tribal law-making prerogatives and tribal regulatory and licensing authority in IGRA;
- Indian preference in hiring;
- Government-to-government consultation under Executive Order 13175;
- Respect for tribal government and law-making authority during agency rule-making as mandated by Executive Order 12866;
- The Unfunded Mandates Act;
- The Federal Advisory Committee Act;
- The Regulatory Flexibility Act; and

The NIGC should also adhere to the principles of respect for tribal government and Indian sovereignty reflected in the Constitution and to the full extent practicable, the NIGC should work with Indian tribes on a basis of mutual respect and consent with regard to its regulations under IGRA.

After all, the NIGC is working with coordinate governments in the Federal system. Moreover, while the NIGC has a budget approaching \$20 million, tribal governments invest more than \$260 million annually for tribal regulatory systems and reimburse the states more than \$71 million annually for state regulation.

Please send the draft letter enclosed below to President Obama and Secretary Salazar to request that he work expeditiously to appoint a new NIGC Chairman and Associate Commissioner and at the same time, put a halt to the unnecessary churning that is now taking place at the NIGC.

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