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June 17, 2011

VIA E-mail to reg.review@nigc.gov

Tracie L. Stevens, Chairwoman
Steffani A. Cochran, Vice-Chairwoman
Daniel Little, Associate Commissioner
National Indian Gaming Commission
1441 L Street, N.W., Suite 9100
Washington, DC 20005

Attn: Lael Echo-Hawk

Re: Comments on Preliminary Draft of 25 CFR Part 559 – Facility License
Notifications, Renewals, and Submissions

Dear Chairwoman Stevens, Vice-Chairwoman Cochran and Commissioner Little:

On behalf of the Seminole Tribe of Florida (the "Tribe") we offer the following comments in response to the National Indian Gaming Commission's ("NIGC") preliminary draft of its proposed revisions to *Part 559 – Facility License Notifications, Renewals, and Submissions*. As an initial matter, the Tribe appreciates the opportunity that this consultation process provides for its views to be considered. The Tribe believes that the consultation process the NIGC is using in its comprehensive regulatory review is a positive one. The distribution of preliminary draft regulations allows for a constructive government-to-government dialogue between tribes and the NIGC, which ultimately will result in stronger and more effective regulation of Indian gaming.

The NIGC's facility license regulations are of recent vintage and of questionable utility. In comments it filed with the NIGC on December 3, 2007, the Tribe objected to the proposed facility license regulations as beyond the NIGC's authority. In those comments the Tribe objected that its environmental, public health and safety provisions would dictate that tribes exercise their sovereignty to enact positive law, and then grant the NIGC the power to judge the adequacy of that law. Then and now, such authority is far beyond what Congress authorized in the Indian Gaming Regulatory Act ("IGRA") and is legally unsupportable. The Tribe also expressed its view that the regulations "should be stricken in their entirety" in comments filed on February 10, 2011.

Accordingly, the Tribe is encouraged that the NIGC is considering striking many of the most objectionable parts of the regulation. Although it would be a dramatic improvement over the current regulation, however, the Tribe continues to question whether the regulation is needed or justified at all. For example, the Tribe questions the remaining utility of requiring tribes to attest to meeting the IGRA's environment, public health and safety requirement. Tribes must

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meet this requirement as a matter of law in any event, and little is served by also requiring them to attest to compliance with the law.

In addition, the Tribe believes one other aspect of the preliminary draft regulation merits further review and consideration by the Commission. The preliminary draft regulations at Section 559.2(b) would provide that:

The Chair shall expedite the process for verifying Indian lands status of the place, facility, or location where class II or class III gaming will occur when circumstance permits. The Chair may elect a one time extension, not to exceed an additional 60 days, to properly verify the Indian lands status of the place, facility, or location where class II or III gaming will occur. Once the Indian lands status is verified, the Chair shall notify the tribe.

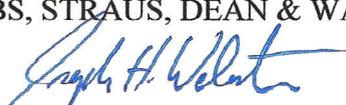
This new provision could be interpreted to suggest that there is a "process for verifying Indian lands status" that must be followed whenever a facility license is submitted to the NIGC, and that no tribe may issue a facility license until the Chair has notified the Tribe that its Indian lands status has been "verified." Of course, there is no such requirement in the IGRA.

The intent of this Section may have been for the NIGC to address concerns that have been raised regarding delays that have occurred when an Indian lands determination has been requested of the NIGC by a tribe. To the extent that the NIGC wishes to impose deadlines upon itself in making Indian lands determinations when requested to do so by tribes or when the NIGC, in its discretion, chooses to do so, the Tribe has no objection. However, the Tribe strongly believes that the proposed language should be clarified to avoid any suggestion that the NIGC must render an Indian lands determination prior to a tribe's issuance of a facility license.

Even so, the Tribe continues to object to the NIGC requiring tribes to submit Indian lands information to the NIGC in the first place. This requirement goes beyond the IGRA, which requires simply that tribes issue licenses for their gaming facilities, and that tribes conduct their gaming on Indian lands. Under the IGRA, tribes are required to issue facility licenses only once, and are not required to notify the NIGC in advance. Tribes are the primary regulators under the IGRA, and tribes should be able to issue a licensing certificate without additional requirements or permissions from the NIGC.

Sincerely,

HOBBS, STRAUS, DEAN & WALKER, LLP


By: Joseph H. Webster

cc: Jim Shore, Esq.