[TRIBAL LETERHEAD]

June XX, 2011

Via Electronic Mail: reg.review@nigc.gov

Ms. Tracie L. Stevens, Chairwoman
National Indian Gaming Commission
1441 L St. NW, Suite 9100
Washington, DC 20005

Dear Chairwoman Stevens:

I am writing on behalf of the ____Tribe/Nation to comment on the National Indian Gaming Commission's ("NIGC") discussion draft facility licensing regulation that was recently posted on the NIGC's website. We appreciate the opportunity to submit comments on the NIGC's proposed changes to its facility license notification, renewal, and submission requirements. We view the NIGC's recent efforts to consult with tribal governments in revising existing regulations as a positive reflection of the new NIGC leadership's commitment to working with tribes on a meaningful government-to-government basis.

In reviewing the draft facility licensing regulations, we are encouraged by the NIGC's proposed changes, which are consistent with the fact that the Indian Gaming Regulatory Act ("IGRA") does not establish the NIGC as a licensing authority. Section 2710(b)(1)(B) of the IGRA specifically vests *tribal governments* with licensure authority and recognizes the issuance of gaming facility licenses as a proper exercise of a tribe's inherent sovereignty and jurisdiction. We are also encouraged by the NIGC's proposed change to eliminate difficult Indian lands eligibility requirements, which we believe are inconsistent with the purposes of the IGRA. We strongly support the NIGC's proposal to eliminate public health and safety reporting requirements and agree that a tribal attestation of compliance is sufficient with regard to environmental and public health and safety issues. Further, we support the NIGC's proposed removal of the three-year renewal requirement. We believe that Congress did not intend to impose such affirmative regulatory mandates on tribal governments. In sum, we commend the NIGC's efforts to amend its facility licensing requirements to more closely comport with the purposes and language of the IGRA.

While the NIGC's draft regulation on facility licensing is a significant improvement over existing regulations, it raises important issues that need additional clarification. The regulation should be clear that tribal governments possess authority to independently issue facility licenses and may open new tribal facilities while the NIGC's "verification process" is pending. If after the requisite period the NIGC cannot verify the Indian lands status of the new facility site, the NIGC may issue a notice of inquiry and the tribe should be allowed to continue operations of its new gaming facility. The proposed regulation provides for the verification of land status by Bureau of Indian Affairs trust deed, tribal governments may also demonstrate the Indian land

status of lands by treaty, statute, executive order, court order or other appropriate documentation and the regulation should say that.

The regulation should also clarify that after the passage of 60 days (or if there is an extension to 120 days), there is a presumption that the tribe has made the required submission and that based on the submission, the NIGC has verified the Indian lands status of the new facility site unless the NIGC notifies the tribe otherwise.

In closing, we would like to reiterate our appreciation for the opportunity to provide comments on this important regulation. We hope our comments are helpful as you proceed with your deliberations.

Sincerely,

Tribal official

Bcc: dhermanyhorses@indiangaming.org