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December 12, 2011

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

National Indian Gaming Commission  
1441 L Street, Suite 9100  
Washington, DC 20005

Re: Comments on Proposed 25 CFR Part 514 – Fees

Dear Commission:

On behalf of the Lytton Rancheria of California (Tribe), we hereby submit the following comments in response to the National Indian Gaming Commission's (Commission) Proposed Fees Regulation, 25 CFR Part 514 (Regulation). The Tribe appreciates the opportunity to submit comments on this proposed preliminary draft and welcomes the Commission's commitment to providing a comprehensive government-to-government consultation process.

## **COMMENTS**

### **Payment Schedule**

The Tribe is opposed to the Commission's proposal to change the submission of fees from a semi-annual to a quarterly basis. The Tribe believes such a change makes it more difficult for Tribes to calculate fees and will result in more instances of late or inaccurate quarterly statements and/or fee payments.

### **Assessable Gross Revenues**

It is not clear what must be included, and what can be excluded, from the calculation of gross revenues. In addition, the Tribe believes that computation examples provided in the Regulation do not reflect the intent of the Regulation. For instance, the example separates gross gaming revenues into two categories – money wagered<sup>1</sup> and entry fees. The text of the Regulation, however, directs Tribes to “show the amounts derived from each type of game.” Such

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<sup>1</sup> Note also that in Class II facilities, there is no money “wagered.”

inconsistency leads to confusion and potential miscalculation of fees. Thus, the Tribe urges the Commission to revise the examples in the Regulation and to promulgate a bulletin to provide Tribes with guidance on these matters.

### **Late Fees**

While the Tribe appreciates the Commission's attempt to reduce the severity of its current practice regarding late payments, the Tribe feels that the Commission's proposed late fee structure remains somewhat severe. An assessment of ten percent (10%) of a Tribe's quarterly fees may result in a significant late fee. This seems a bit harsh, particularly for payments that may be just a few day late. Thus, the Tribe urges the Commission to consider including a grace period (i.e., no late fees for payments 1-7 days late) and/or reducing the percentage rate for late payments of thirty (30) days or less.

The Tribe believes the term "proposed late fees," which is used numerous times throughout the Regulation, is inaccurate and should be changed to "late fees assessed."

Section 514.13 prohibits Tribes from treating any late fees assessed against them as an operating expense. Any late fee assessment is, in fact, an operating expense. The Tribe believes the Commission's true intent is to prohibit Tribes from deducting from their fee calculations, the amount of any late fees assessed. Thus, the Tribe would ask the Commission to consider revising paragraph 514.13(a) to clarify this prohibition.

### **CONCLUSION**

On behalf of the Lytton Rancheria of California, we appreciate the opportunity to comment on the Commission's proposed revisions to these regulations. The Tribe looks forward to future discussions and/or consultations with representatives of Commission regarding these regulations.

Sincerely,



Kathryn A. Ogas  
Attorney for the Lytton Rancheria of California