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August 22, 2011

VIA EMAIL TO: reg.review@nigc.gov
Chairwoman Tracie Stevens
National Indian Gaming Commission
1441 L. Street, Suite 9100
Washington, D.C. 20005

RE: Preliminary Draft Changes to 25 C.F.R. Part 580

Dear Chairwoman Stevens:

In response to the National Indian Gaming Commission's ("NIGC") request for comments to the preliminary draft changes to 25 C.F.R. Part 580, the Cheyenne and Arapaho Tribes of Oklahoma ("Tribes") hereby submit the following recommendations:

25 C.F.R. § 580.1 What definitions apply?

- (d) *Summary proceeding*: insert "based on the written record before the Commission upon written submissions only to the Commission" after "is" in the first line and delete "on paper only."

25 C.F.R. § 580.5 What ex parte communications are prohibited?

- (a) Clarify "discretion" as it applies to this section. Alternatively, delete "of fact, law, or discretion" to make the section read "... any ex parte communication in connection with any aspect of the proceedings except for procedural matters which the parties may inquire about."
- (b) Same recommendation as in (a).
- (e) Insert "or representative(s) of the tribe and management contractor or any other party" after "contractor".

25 C.F.R. § 581.4 How do I file a motion in an appeal on written submissions before the Commission?

- (b)(1) Insert "for participation" after "grounds" at the end of the sentence.

25 C.F.R. § 582.9 What will the final decision contain?

(a) Insert “of fact” after “findings” and “of law” after “conclusions”.

25 C.F.R. § 583.8 What will the final decision contain?

See recommendation to 25 C.F.R. § 582.9.

25 C.F.R. § 584.9 What is the hearing process?

Add subsection addressing whether the hearing process will follow the Federal Rules of Civil Procedure and Rules of Evidence. If these Rules will not be followed, then insert a statement that they will not apply to NIGC hearings and clarify the Rules that will be followed.

25 C.F.R. § 584.10 How may I request to limit disclosure of confidential information?

Insert new subsection (3) to read “Information referred to in 25 U.S.C. § 2701 *et seq.*; or” and redesignate (3) as (4). Delete “or” at end of subsection (2).

25 C.F.R. § 584.16 What will the final decision contain?

See recommendation to 25 C.F.R. § 582.9.

25 C.F.R. § 585.8 What will the final decision contain?

See recommendation to 25 C.F.R. § 582.9.

The Tribes oppose any attempt by the NIGC to regulate Class III gaming pursuant to § 2710(d) of IGRA and the decision in *Colorado River Indian Tribes v. NIGC*.

We appreciate the NIGC’s commitment to Executive Orders 13563 and 13175 by its consideration of our comments on the preliminary draft changes to 25 C.F.R. Part 580. We look forward to additional opportunities to comment at the proposed rule phase.

Sincerely,



Janice Prairie Chief-Boswell, Governor
Cheyenne and Arapaho Tribes of Oklahoma

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cc: Walter Hamilton, Chairman, Cheyenne and Arapaho Gaming Commission via email