

NATIONAL INDIAN GAMING COMMISSION

NOTICE OF VIOLATION

NOV-26-01

TO: John Petoskey, General Counsel
GTB Legal Department
2605 N.W. Bayshore Drive
Peshawbestown, MI 49682

Joyce Petoskey, Interim Gaming Regulator
Grand Traverse Band Gaming Commission
2605 N. West Bay Shore Drive
Peshawbestown, MI 49682

Sandra Witherspoon, Chairwoman
Grand Traverse Band of Ottawa and Chippewa Indians
2605 N. West Bay Shore Drive
Peshawbestown, MI 49682

1. Notification of Violation

- A. The Acting Chairwoman of the National Indian Gaming Commission (NIGC or Commission) hereby gives notice that the Grand Traverse Band of Ottawa and Chippewa Indians (Tribe or Respondent), located in Peshawbestown, Michigan, is operating the gaming facility known as Crystal Shores Casino on the Benzie Parcel in Benzonia Township, Michigan, in substantial violation of the Indian Gaming Regulatory Act (IGRA), NIGC regulations, and the Tribe's gaming ordinance.
- B. The Tribe has violated IGRA and NIGC regulations by conducting gaming activities on lands acquired in trust after October 17, 1988, which do not meet any of the statutory exceptions permitting gaming on such lands under 25 U.S.C. § 2719.¹ Specifically, the Tribe is operating a gaming facility on the Benzie Parcel, which is not eligible for gaming under the "restored lands" exception or any other exception to the general prohibition on gaming on after-acquired lands.
- C. Under 25 C.F.R. § 573.2(d), the Acting Chairwoman may proceed directly to enforcement action without first issuing a letter of concern. The purpose of a letter

¹ See also 25 U.S.C. § 573.4(a)(13).

of concern is to provide a description of the circumstances surrounding the violation and to provide a respondent with an opportunity to correct a violation. In this matter, the Acting Chairwoman is moving directly to enforcement action because the Tribe has clearly acknowledged that they understand that the Benzie Parcel does not meet the restored lands exception in 25 C.F.R. Part 292.² Furthermore, as discussed below, the Tribe has also received ample notice from the NIGC that the Benzie Parcel is ineligible for gaming under IGRA. Despite these notices from the NIGC, the Tribe notified the Commission of its intent to open and subsequently commenced gaming operations on the parcel on January 22, 2025.³

- D. Because IGRA requires Indian gaming to occur on Indian lands, Indian lands opinions opine as to whether certain lands qualify as Indian lands eligible for gaming under IGRA. On July 22, 2025, the NIGC Office of General Counsel issued an Indian lands opinion to the Tribe including detailed legal analysis regarding the ineligibility of the Benzie Parcel for gaming. An Indian lands opinion promotes compliance with IGRA and potentially helps tribes avoid NIGC enforcement actions for gaming on ineligible Indian lands. Finally, the Acting Chairwoman reiterated this position when disapproving the Tribe's site-specific ordinance amendment on January 8, 2026.⁴
- E. The Tribe's decision to operate the facility in direct contravention of the NIGC's legal opinion and the Tribe's own acknowledgment that the Benzie Parcel is not eligible for gaming under 25 C.F.R. § 292 demonstrate that the Tribe is aware of the circumstances surrounding the violation and has not taken any measures to correct the violation despite a reasonable amount of time and opportunity to do so. Therefore, to address this ongoing substantial violation of IGRA, the Acting Chairwoman is exercising her authority to move directly to the issuance of this Notice of Violation.

2. Authority

Under the Indian Gaming Regulatory Act (IGRA)⁵ and NIGC regulations,⁶ the Acting Chairwoman of the NIGC may issue a Notice of Violation to any person for violations of any provision of IGRA, NIGC regulations, or an approved tribal gaming ordinance or resolution.

² Letter from Sandra Witherspoon, Chairwoman, Grand Traverse Band of Ottawa and Chippewa Indians to Bryan Newland, Assistant Secretary Indian Affairs, Bureau of Indian Affairs and Rea Cisneros, General Counsel, NIGC Re: Gaming Eligibility of the Grand Traverse Band's Benzie Parcel, at page 15 (July 24, 2024).

³ Letter from Sandra Witherspoon, Chairwoman, Grand Traverse Band of Ottawa and Chippewa Indians to Rea Cisneros, Acting General Counsel, NIGC, *July 24, 2024 Facility License Notification* (Jan. 17, 2025).

⁴ Letter from Sharon Avery, Acting Chairwoman, NIGC to Sandra Witherspoon, Chairwoman, Grand Traverse Band of Ottawa and Chippewa Indians, *Grand Traverse Band of Ottawa and Chippewa Indians Gaming Ordinance* (January 8, 2026).

⁵ 25 U.S.C. § 2713(a).

⁶ 25 C.F.R. § 573.3(a).

3. Applicable Federal Law and Tribal Law

- A. 25 U.S.C. §§ 2710(b)(1) and 2710 (d)(1)(A)(ii) – IGRA permits an Indian tribe to engage in, or license and regulate, Class II and Class III gaming on Indian lands within such tribe's jurisdiction.
- B. 25 U.S.C. § 2719(a) – IGRA generally prohibits gaming on lands acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988.
- C. 25 U.S.C. § 2719(b)(1)(B)(iii) – IGRA provides an exception to the general prohibition if lands are taken into trust as part of the “restoration of lands for an Indian tribe that is restored to Federal recognition.”
- D. 25 C.F.R. § 292.12(c) – Department of Interior regulations require that in order for lands to qualify as “restored lands,” the tribe must demonstrate a temporal connection to the land, meaning the land must be included in the tribe’s first request for “newly acquired lands” since restoration, or the tribe must submit an application within 25 years of restoration and not be gaming on other lands.
- E. 25 C.F.R. § 292.2 – Defines “newly acquired lands” to mean, “land that has been taken, or will be taken, in trust for the benefit of an Indian tribe by the United States after October 17, 1988.”
- F. Section 104 of the Tribe’s Gaming Ordinance states: “Class III gaming is authorized on the Band's Indian lands, provided that such gaming is conducted in accordance with this ordinance, the Indian Gaming Regulatory Act, and the Tribal State Compact.”⁷
- G. 25 C.F.R. § 573.4(a)(13) – It is a substantial violation of IGRA to operate a gaming facility on Indian lands that are not eligible for gaming under IGRA.

4. Circumstances of the Violation

- A. The Grand Traverse Band of Ottawa and Chippewa Indians is a federally recognized Indian tribe with tribal headquarters in Peshawbestown, Michigan.
- B. The Tribe acquired the land known as the Benzie Parcel (approximately 79.5 acres in Benzonia Township, Benzie County, Michigan) in fee on September 13, 1994.
- C. The Department of the Interior accepted the Benzie Parcel into trust on April 21, 1999.

⁷ Grand Traverse Band Gaming Code § 104 (June 28, 2018).

- D. Because the land was acquired in trust after October 17, 1988, it constitutes “newly acquired lands” subject to the prohibition in 25 U.S.C. § 2719(a).
- E. On July 24, 2024, the Tribe submitted notice of its intent to issue a facility license for the Benzie Parcel, asserting the land met the “restored lands” exception.⁸
- F. On July 22, 2025, the NIGC Office of General Counsel issued an Indian lands opinion.⁹ The Opinion analyzed the two ways the Tribe could demonstrate a temporal connection to the land and the Benzie Parcel does not satisfy either requirement. The Opinion determined that the Benzie Parcel does not satisfy the temporal requirement under the restored lands exception because:
1. 25 C.F.R. § 292.12(c)(1) requires the Benzie Parcel to be included in the Tribe’s first request for newly acquired lands since the Tribe was restored to Federal recognition. Another parcel of land, the Turtle Creek parcel, was accepted into trust prior to the Tribe purchasing the Benzie Parcel in fee.¹⁰ Therefore, the Benzie Parcel was not included in the Tribe’s first request for newly acquired lands.
 2. 25 C.F.R. § 292.12(c)(2) requires that a tribe submitted an application to take the land into trust within 25 years after the tribe was restored to Federal recognition and the tribe is not gaming on other lands. The Tribe is already operating two gaming facilities, Turtle Creek and Leelanau Sands, on other lands, disqualifying it from the exception.¹¹
- G. On October 15, 2025, the Tribe amended its gaming ordinance (Resolution #25-43.3808) to define “Indian lands” to specifically include the Benzie Parcel, purporting to authorize gaming under IGRA on the parcel. On January 8, 2026, the Acting Chairwoman disapproved this amendment, reiterating that the parcel is not eligible for gaming.¹²
- H. Despite repeated warnings, on January 17, 2025, Chairwoman Witherspoon notified the NIGC that the Tribe would open the Crystal Shores Casino on January 18, 2025.¹³

⁸ *Supra* note 2.

⁹ Letter from Rea Cisneros, General Counsel, NIGC to Sandra Witherspoon, Chairwoman, Grand Traverse Band of Ottawa and Chippewa Indians *Re: Grand Traverse Band of Ottawa and Chippewa Indians Indian Lands Opinion, Benzie Parcel* (July 22, 2025).

¹⁰ The Turtle Creek site was taken into trust on August 8, 1989. *See Grand Traverse v. US*, 198 F. Supp. 2d at 925 (W.D. Mich. 2002).

¹¹ *See supra* note 2; Declaration from Alicia Buentiempo, Compliance Officer, NIGC ¶ 2.

¹² Letter from Sharon Avery, Acting Chairwoman, NIGC to Sandra Witherspoon, Chairwoman, Grand Traverse Band of Ottawa and Chippewa Indians, *Grand Traverse Band of Ottawa and Chippewa Indians Gaming Ordinance* (January 8, 2026).

¹³ Letter from Sandra Witherspoon, Chairwoman, Grand Traverse Band of Ottawa and Chippewa Indians to Rea Cisneros, Acting General Counsel, NIGC, *July 24, 2024 Facility License Notification* (Jan. 17, 2025).

- I. The Tribe commenced gaming operations at the Crystal Shores Casino on January 22, 2025, and continues to operate as of the date of this Notice of Violation with 86 class III gaming machines.¹⁴
- J. Operating a gaming facility on Indian lands not eligible for gaming constitutes a substantial violation of IGRA and violates the Tribe's Gaming Ordinance.

5. Measures Required to Correct the Violation

No remedial action can correct the violation that has already occurred. To correct this ongoing substantial violation, the Tribe must:

- A. Immediately cease and desist all class II and/or class III gaming activities on the Benzie Parcel.
- B. Keep the facility closed to gaming until such time as the Tribe can demonstrate that the land is eligible for gaming under IGRA.

6. Appeal

- A. The Tribe may appeal this action within 30 days of service of this NOV-26-01. 25 C.F.R. §§ 584.3(a), 585.3. The Tribe may either: (1) request a hearing before a Presiding Official under 25 C.F.R. Part 584 or (2) may submit a written waiver of its right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions pursuant to 25 C.F.R. Part 585.
- B. An appeal must reference this NOV-26-01 and be submitted to the NIGC at the following address:

NIGC Attn: Office of General Counsel
1849 C Street NW Mail Stop # 1621
Washington, DC 20240
- C. If the Tribe elects a hearing before a Presiding Official, within 10 days after filing the notice of appeal, it must file with the Commission a list of the names of proposed witnesses who will present oral testimony at the hearing, the general nature of the expected testimony, and whether a closed hearing is requested and the reason therefor; and a brief which states succinctly the relief desired and the grounds in support thereof including, when available, supporting documentation and evidence in the form of affidavits. 25 C.F.R. § 584.3(b).

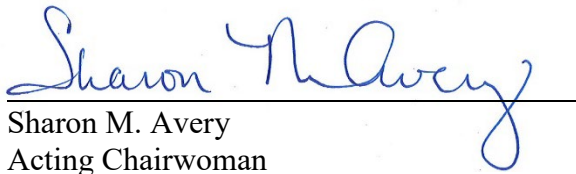
¹⁴ Email from Joyce Petoskey, Interim Gaming Regulator, Grand Traverse to Alicia Buentiempo, Compliance Officer, NIGC, *Re: update records* (Jan. 5, 2026); Declaration from Alicia Buentiempo, Compliance Officer, NIGC ¶ 4.

- D. If the Tribe submits a notice of appeal with the Commission, such notice must reference the action or decision from which the appeal is taken and must include a written waiver of the Tribe's right to an oral hearing before a presiding official and an election to have the matter determined by the Commission solely on the basis of written submissions. 25 C.F.R. §§ 584.3(c), 585.3. The appeal brief must be filed within 30 days of the service of the record and shall succinctly state the relief sought and supporting ground(s), and may include supporting documentation.¹⁵

7. FINE AND SUBMISSION INFORMATION

Each violation cited above may result in the assessment of a civil fine against the Tribe in an amount not to exceed \$65,655 per violation per day.¹⁶ Under 25 C.F.R. § 575.5(a), the Tribe may submit written information about the violations to the Chair within 15 days after service of this NOV (or such longer period as the Chair may grant for good cause). The Chair shall consider any information submitted in determining the facts surrounding the violations and the amount of the civil fine, if any.

Dated this 12th of January 2026.


Sharon M. Avery
Acting Chairwoman

¹⁵ 25 C.F.R. § 585.3.

¹⁶ 25 C.F.R. § 575.4. Under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114-74) agencies are required to make annual inflationary adjustments to their civil monetary penalties by January 15th of each year, in accordance with annual OMB guidance.

Certificate of Service

I certify that NOV-26-01 was sent by first class mail, certified U.S. mail, return receipt requested and by email on this 12th day of January 2026 to:

John Petoskey, General Counsel
GTB legal Department
2605 N.W. Bayshore Drive
Peshawbestown, MI 49682
john.petoskey@gtb-nsn.gov

Joyce Petoskey, Interim Gaming Regulator
Grand Traverse Band Gaming Commission
2605 N.W. Bayshore Drive
Peshawbestown, MI 49682
joyce.petoskey@gtb-nsn.gov

Sandra Witherspoon, Chairperson
Grand Traverse Band of Ottawa and Chippewa Indians
2605 N.W. Bayshore Drive
Peshawbestown, MI 49682
sandra.witherspoon@gtb-nsn.gov

A handwritten signature in blue ink, appearing to read "Joshua Proper", is written over a horizontal line.

Joshua Proper, Staff Attorney