



COMANCHE NATION GAMING COMMISSION  
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Via Email Only

National Indian Gaming Commission  
Attn: Vannice Doulou  
1849 C Street Northwest  
Washington, D.C. 20240  
vannice\_doulou@nigc.gov

Re: 25 C.F.R. § 547.5; Grandfathered Class II Gaming Systems

Dear Ms. Doulou,

Please consider this letter the official comments of the Comanche Nation Gaming Commission (the "CNGC") concerning the Grandfathered Class II Gaming Systems and their controlling regulations found at 25 C.F.R. § 547.5. In short, the CNGC supports the removal of the sunset provision contained within 25 C.F.R. Part 547, or at a minimum, extending it for another substantial period of time.

As you are aware, revenue generated from gaming activities is the primary source of funding for the essential governmental services offered by tribes. The federal government's primary policy position related to the tribes over the last fifty years has been one of self-determination and economic sufficiency. The Indian Gaming Regulatory Act of 1988 ("IGRA") was passed in furtherance of the self-determination policy and has been one of its greatest success stories. Over the nearly 30 years of tribally regulated gaming in Indian country under IGRA, tribes have gained the technical knowledge and sophistication to properly regulate the conduct of Class II and Class III games within their tribal jurisdiction.

As evidenced by the fact that no "mishaps" or "technical breakdowns" have occurred within Indian country due to the play of grandfathered games, tribal gaming commissions should be allowed to continue to exercise their right under 25 U.S.C. § 2701(5), which states, "Indian tribes have the exclusive right to regulate gaming activity on Indian lands..." Clearly, there are two significant impacts on tribes if the sunset is not removed or substantially extended: economic hardship for the tribes that rely on the revenue generated by these machines and legal infringement on the tribal right to regulate gaming within their respective jurisdiction. With all due respect, IGRA limited the NIGC's role in regulation of tribal gaming to the power to "monitor," "inspect and examine." 25 U.S.C. § 2706(b)(1)-(2).

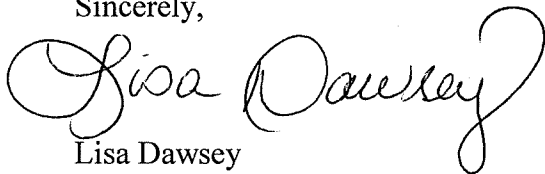
Additionally, reasonable legal questions exist as to the NIGC's authority to overrule federal court decisions through the promulgation of regulations. The very grandfathered gaming systems that will be removed from eligible Class II games have been determined to be Class II games under IGRA by federal courts. *See United States v. 103 Electronic Gambling Devices,*

223 F.3d 1091 (9th Cir. 2000); *United States v. 162 MegaMania Gambling Devices*, 231 F.3d 713 (10th Cir. 2000).

Given the significant economic impact to tribes and the legitimate legal questions concerning IGRA's intent, the CNGC respectfully requests that the NIGC remove the sunset provision contained within 25 C.F.R. Part 547, or at a minimum, extending it for another substantial period of time.

The CNGC appreciates the opportunity to comment on this important area of tribal gaming. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Dawsey". The signature is written in black ink and is positioned to the left of the typed name.

Lisa Dawsey  
Executive Director, Comanche Nation Gaming Commission

cc: Comanche Nation Gaming Commissioners