

The SHOSHONE-BANNOCK TRIBES



FORT HALL INDIAN RESERVATION

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GAMING COMMISSION

P.O. BOX 306

FORT HALL, IDAHO 83203

June 30, 2017

Jonodev Oselola Chaudhurt, Chairman
National Indian Gaming Commission
1441 L Street NW, Suite 9100
Washington, DC 20005

Subject: NIGC Consultation Comments

Dear Mr. Chaudhurt:

The Shoshone-Bannock Gaming Commission of Fort Hall, ID submits comments regarding the NIGC proposed changes to the Proposed Guidance; Developing a Strong Tribal Workforce; Management Contract Regulations and procedures; Fee Rates; Technical Devices for Mobile Devices; and, 547 Grandfathered Class II Gaming Systems.

If you have any questions, please feel free to contact our office at (208) 237-8774, ext. 3025.

Sincerely,

Clinton Plenty Wounds, Chairman
Shoshone-Bannock Gaming Commission

File

Attachment

Cc: FHBC

June 30, 2017

Chairman: Jonodev Oselola Chaudhurt
National Indian Gaming Commission

Dear Chairman and Commissioners:

On behalf of the Shoshone-Bannock Tribes of Fort Hall, Idaho, we write to submit comments on the recent National Indian Gaming Commission (NIGC) consultation request. The Shoshone-Bannock Tribes is comprised over a Tribal membership of approximately 5,100, and has a land base of 550,000 acres with three casinos located within the exterior boundaries of the Fort Hall Reservation. We hold 98% of our land in trust with jurisdiction extending into four state counties within our reservation. We operate Class III gaming machines and bingo at our gaming facilities, which employ about 250 employees.

Class III MICS

The draft Class III Minimum Internal Controls are very similar to some of the Tribal Internal Controls that are established by the Tribal Gaming Commission. It is our position that the Tribal Internal Controls should control and regulate such gaming as we are in the best position to regulate the particular gaming at our casinos. The proposed MICs should be limited to instances to fill the gap where a tribe does not have established TICs. We respectfully reserve the right to provide further comments on the draft Class III MICS.

Rural Outreach

The Fort Hall casino operations have no local gaming competitors, except for Nevada casinos located over 200 miles away. Despite this fact, the gaming market is very limited because of the general public's anti-gaming values. The Shoshone-Bannock Tribes has always been in uphill battle to be in a competitive market place which seems to be less favorable to Indian Gaming marketing conditions. The Shoshone-Bannock Tribes have two gaming operations that generate less than \$25 million per year in gross gaming revenue and one main casino generating above the \$25 million.

Rural areas have its own concerns. In our region Indian Gaming is sometimes blamed for unfair advantages by certain non-Indian political segments whom have state wide political ties challenging tribal gaming for its own advantage. Tribal Governments and Tribal Gaming have to monitor, educate and persuade state legislators to not to seek legislation that tries to undo Indian gaming compacts. As it was pointed out in the Portland Consultation process, tribes would greatly support NIGC's help to provide an understanding with Non-Indian Legislators to become more aware of Indian gaming and massive gaming regulatory requirements our Tribes must comply with and provide on our Fort Hall Reservation.

Many times we read or have been made aware of litigation that have impacts to tribes by law that can undermine the governance of gaming far from the location where the legal action has taken place. Case in point, employees unionized in Indian Casinos in many California tribal casinos causing a wide spread precedence impacting our Tribes. We propose that NIGC should support tribes in such instances rather than simply permitting another federal agency such as the National Labor Relations Board to take adverse action.

The NIGC's proposal to add another regulatory agency in the northern states closer to better serve rural communities is a plus. We support such action.

Developing a Strong Tribal Workforce

During one of many Tribal Annual Meetings of the General Membership of the Shoshone-Bannock Tribes, the general membership passed a resolution requiring that all positions shall employ "qualified" tribal members to work at the casinos on the Fort Hall Reservation. If there is no "qualified" tribal member for any position, then gaming will seek out a "qualified" person to fill that particular position.

Training is an integral part of the employment process and most importantly, continuing education for its tribal member employees is an added plus. While employees are employed at the Casino, they have the opportunity to apply for educational benefits during permitted scheduled times. It strengthens the workforce and sets examples for other tribal members to gain

employment at gaming and to seek the opportunity to better one's self worth and live up to the integrity as all casinos seek to hold.

The Gaming operations and regulatory operations welcomes more onsite training due to the rising cost of travel, hotel lodging and high cost of expenses offered by big cities such as the east and west coast, including Las Vegas. We encourage NIGC to offer more on-site training opportunities and locations where it is accessible for staff and other gaming tribes that are unable to attend travel to higher cost locations.

Management Contracts

The Shoshone-Bannock Tribes and Gaming Commission do not support the management contract language and have on prior occasions provided the following comments to the NIGC question: "Should the definition be expanded to include any contract that pays a fee based on a % of gaming revenue?" We would say "NO", since the requirements have never been changed up until now. This would be an improper and unauthorized expansion of the NIGC's approval powers. Further, fees paid, as a % of gaming revenue does not by itself constitute a management contract. The NIGC should not unilaterally expand its role in this area.

NIGC has asked: "Should the calculation include reimbursement of expenses and development and other nongaming management fees – "acceptable compensation?" Again we say, "NO". This proposal makes no sense because the reimbursement of expenses would not qualify as compensation under GAAP and general business principles. The jurisdiction of the NIGC to approve agreements does not extend to agreements that are not collateral to a management contract. The NIGC should not arbitrarily change existing business practices.

We highly recommend a review by a "TRIBAL ADVISORY GROUP" because of the need for many tribes to include their experience in dealing with management contracts.

Technical Standards for Mobile Gaming Devices

At this time, the Gaming operation has no plans to utilize mobile gaming devices for gaming purposes. We, therefore, have no comments on this section.

Fees

In 2011, the Shoshone-Bannock Tribes and the Gaming Commission issued a reply to 25 CFR, Part 514 Fees Rates. As you can see, the National Indian Gaming Commission (NIGC) finally came around to determine one rate changes of each year commencing in November 1 of each year at the beginning of the tribes fiscal year, which is more reasonable. We agree with this proposal.

Fees and worksheet: We have noticed the annual payment which may be based on the previous preliminary approved rate is in line with the quarter worksheets which is reconciled accordingly throughout each quarter. Shoshone-Bannock Gaming applies a lump sum annual payment each year and reconciles each quarter based on the NIGC approved rate.

The NIGC is interested in receiving comments on whether part 514 is in need of revision. In particular, the Commission is interested in receiving comment on whether the Commission should consider revising this part to base fees on the gaming operation's fiscal year. Currently, the fee is calculated based on the calendar year. The Commission understands that it may be difficult to accurately calculate fees based on the calendar year, which may lead to frequent audit adjustments. The Commission is asking for comments on whether this issue may be resolved by changing "calendar to fiscal".

The Shoshone-Bannock tribal government and Gaming Operations use a "fiscal year". If changed to the fiscal year, then the fee assessment periods would not need changing as in previous years notices, pointed out in the January 22, 2010, Bulletin No. 2010-1 "Annual Fees Payable by Indian Gaming Operations: New Rules".

In addition, NIGC asks, "Should the Commission consider amending this part to define gross gaming revenue consistent with GAAP definition of this term?" Yes, we agree the NIGC should consider amending the definition of gross gaming revenue. For this reason, that the calculation of the NIGC fee should be based Gaming Operation's fiscal or annual reporting year and on the numbers from a GAAP audited financial statement for the same fiscal year. The definition of "gross gaming revenue" should also be used consistently with GAAP and the AICPA audit guide

for casinos making it much simpler to reconcile and document. These changes would prevent continuous adjustments to the fees calculated because the fees would be based on a well-documented and easily identifiable audited number. If the gross revenue definition was consistent with the American Institute of Certified Public Accountant (AICPA) definitions for casinos, then revenues from fingerprinting or other miscellaneous items would not be applicable with regard to fee calculations.

In answer to NIGC considering amending this part to include fingerprint processing fees? Yes, consider amending the FBI finger printing process. The Shoshone-Bannock Gaming Commission processes our finger printing fees (payments) through a tribal budgeting process and pays the FBI finger printing cost separately from the fee calculation process.

With regards to the Notice of Violation for late payments, the Shoshone-Bannock Gaming Commission would rather have NIGC consider a late payment fee in lieu of a Notice of Violation (NOV). NIGC needs to take into consideration the tribe's overall economic factors including, the adverse impact of NOV results in Credit ratings; the overall appearance of non-compliance; the closing of a casino doors over late fees is an excessive measure and draws a negative impact to the economy on an Indian reservation. Yes, NIGC needs to amend the regulations to allow for a due process building its way to warnings and into negligence for failing to comply.

547 Grandfathered Class II Gaming Systems

On May 25, 2017, the Shoshone-Bannock Gaming Commission replied to 25 CFR Part 547 the Grandfathered Class II Gaming System. The National Indian Gaming Commission seeks comments to the following questions: (1) any information related to the steps tribes have taken to comply with the grandfathering provision and any difficulties in implementing those provisions; (2) what risks, if any, the grandfathered games may pose to a gaming operation or the gaming public; (3) how those risks may be mitigated by means other than Part 547; and (4) what impacts, if any will the November 10, 2018 deadline have on your operation?

Whereas the Grandfathered gaming systems of any Class II gaming system manufactured before November 10, 2008, that is not already certified pursuant to this sub-section or compliant with

paragraph (c) of this section may be made available for use at any tribal gaming operation providing compliance are approved.

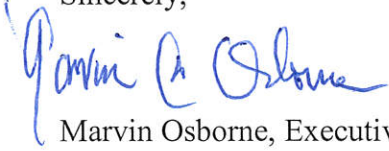
However, Shoshone-Bannock Gaming cannot submit for an operation system because it does not have Class II Gaming Devices. Bingo systems are govern by a contract vendor providing their own server system and equipment. Tracking of financial records are thru the internal financial system for accountability. The Shoshone-Bannock Gaming Commission is not in a position to submit the Class II Gaming system software that affects the play of the Class II Games, together with the signature verification required by §547.8(f) to a testing laboratory recognized pursuant to paragraph (f) of this section within 120 days after October 22, 2012. The Shoshone-Bannock Gaming does not have Class II Gaming Devices at any of the three casinos on the Fort Hall Reservation, Idaho.

No testing laboratory tests have been conducted by Shoshone-Bannock Gaming and no risk are involved for the submission to the standards established by §547.8(b), §547.8(f), §547.14, and any additional technical standards adopted by the Shoshone-Bannock Gaming Commission other than the Tribal Internal Control System and internal regulatory requirements of the Shoshone-Bannock Gaming Commission are in place at this time.

The Shoshone-Bannock Gaming Commission does not conduct any Class II Gaming system devices and equipment on the Fort Hall Reservation, Idaho. If we have over looked any criteria that may change our view to Class II Gaming in the near future, the Shoshone-Bannock Gaming would certainly not want to close its doors to Class II Gaming Devices, we would allow the opportunity to explore the opportunity if the economic condition are certain to conduct Class II Gaming on the Fort Hall Reservation. As of now, there is no attraction to Class II Gaming here at the Shoshone-Bannock Gaming.

In conclusion, thank your for the opportunity to provide comments on the proposed revisions to regulations.

Sincerely,



Marvin Osborne, Executive Director
Shoshone-Bannock Gaming Commission

Cc: Chairman Nathan Small and Member of the Fort Hall Business Council
Chairman Plentywounds and Members of Gaming Commission