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of the Auburn Rancheria

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Council Member

June 21, 2017

Via Email (vannice_doulou@nigc.gov) & U.S. Mail

Mr. Jonedev Chaudhuri, Chairman
National Indian Gaming Commission
ATTN: Vannice Doulou
C/O Department of the Interior
1849 C Street NW
Mail Stop #1621
Washington, DC 20240

Dear Chairman Chaudhuri:

The United Auburn Indian Community conducts Class III gaming at the Thunder Valley Casino Resort in Lincoln, California. We appreciate the National Indian Gaming Commission's opportunity to provide comment on the NIGC's proposal to issue guidance that tribal regulators may use in developing their own Class III internal controls, and also to maintain in the federal register the Class III Minimum Internal Control Standards at 25 CFR Part 542 in a suspension status.

SUMMARY:

We support the NIGC's continued provision of minimum internal control standards for Class III gaming, specifically: (1) The NIGC's current decision to maintain the Class III MICS at 25 CFR Part 542 in a suspension status that ensures the text adopted in 2006 will remain on the books and also specifies that it is not enforceable without the Tribe's express consent; and (2) The NIGC's current decision to provide guidance on updates or best practice recommendations for the Class III MICS. **We further urge the NIGC to specify that such guidance on updated Class III MICS "meet or exceed" the 2006 MICS at 25 CFR Part 542, for the reasons specified below.**

Our comment on the specific proposed updated guidance is also provided below.

Part 542: Minimum Internal Control Standards for Class III Games

As we have previously commented in writing and by testimony, the federal regulatory standards for Class III Gaming MICS at 25 CFR Part 542 have an important and positive impact on the industry, serving since 1999 as a uniform and solid baseline for tribes to issue their own tribal internal control standards. The uniform federal minimum standard facilitates regulatory compliance in such areas as external audit and shortens the learning curve for internal audit, facility audit and regulators recruited from another state or tribal jurisdiction. The industry's reliance upon the federal standard has roots in the historical evolution of Indian gaming as well as their efficiency and effectiveness.

Our Tribe has adopted the federal MICS standard, and our tribal gaming ordinance approved by the NIGC confers regulatory oversight to the NIGC to monitor and enforce the MICS. The federal Class III MICS currently are used as the standard in tribal-state gaming compacts, regulations, tribal gaming ordinances, and Secretarial procedures. In California, in addition to new compacts and compact amendments incorporating the federal Class III MICS, a state-wide regulation called CGCC-8 enacted pursuant to the compact incorporates the federal MICS standards. It also provides an alternative NIGC compliance section that enables California tribes to opt for NIGC monitoring of MICS compliance, where a tribe has chosen to request such federal oversight in its gaming ordinance. This valuable alternative is entirely voluntarily and up to the sovereign decision of each tribe.

We agree that the federal Class III MICS standard should remain in place, and any review of these standards and regulations at this stage should carefully take into account the important role these standards have played and continue to play for many tribes.

Most importantly, we urge the NIGC to specify in its guidance that such guidance updates “meet or exceed” the Class III MICS published at 25 CFR Part 542. This will avoid any unnecessary confusion and also compliment the approach taken in many compacts, regulations, ordinances, and Secretarial Procedures. This enables tribes the option to choose to adopt the updates into their tribal MICS, preserving some of the federal uniformity of regulation in the industry and avoiding costly duplication of efforts. This approach works well with the model used in our tribal gaming ordinance approved by the NIGC, which incorporates standards that equal or exceed the federal MICS as published at Part 542 or amended by mutual agreement of the NIGC and the Tribe. This approach also compliments the California state-wide regulation CGCC-8, which provides for the standard of compliance to be 25 CFR Part 542 as in effect on October 19, 2006, or as it may be amended, as well as an alternative material compliance standard where a tribe adopts MICS that meet or exceed 25 CFR Part 542, as in effect on October 19, 2006, or as it may be amended. This approach also compliments new compacts in California which refer to and require implementation of standards that are no less stringent than those contained in the NIGC MICS published in 2006, and as they may thereafter be amended.

Comment on Specific Guidelines Proposed

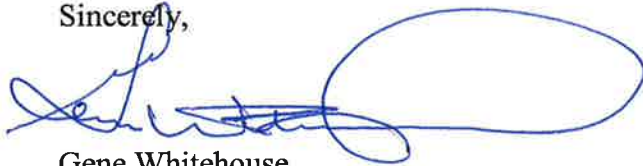
The proposed guidance contains an update for the MICS Gaming Machines section currently at Section 542.13(g)(4). The existing MICS pertains to gaming machines with potential jackpots in excess of \$100,000. Specifically, Section 542.13(g)(4) provides: “Gaming machines with potential jackpots in excess of \$100,000 shall have the game software circuit boards locked or physically sealed. The lock or seal shall necessitate the presence of a person independent of the gaming machine department to access the device game program EPROM, or other equivalent game software media.”

The proposed guidance, at Section 4 “Gaming Machines” at subsection (5)(iv), eliminates the exception for games with a potential jackpot *less than* \$100,000 and requires the presence of a person independent of the gaming department to access *all* game circuit boards.

We request that the NIGC consider amending the guidance in the “Gaming Machines” Section 4 at (e)(5)(iv) to include an exception for games that do *not* meet “high access requirements” (potential jackpots in excess of \$100,000, ram clear capability without physical access program, or \$10 denomination and higher) *and* where a Keywatcher System (which requires a person independent of the gaming department to remove a key to access game circuit boards) and surveillance prior notification and contemporaneous coverage are utilized to ensure secure access to such game circuit boards. The new proposed guidance requiring a person independent of the gaming machine department to be present for access to each circuit board for games *under* the “high access requirements” will be unnecessarily burdensome for high volume properties where security is adequately safeguarded by the Keywatcher System and surveillance notification and coverage prior to and during such access to the circuit board.

We appreciate this opportunity to provide written comment and look forward to any continued consultation on these issues.

Sincerely,



Gene Whitehouse
Chairman

Cc: Ed Machado, UAIC Tribal Gaming Agency Chairperson
Jane Zerbi, Esq.