



COQUILLE INDIAN TRIBE

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Statement of Brenda Meade, Chairperson of the Coquille Indian Tribe

NIGC Consultation on One Touch Electronic Bingo Systems

July 18, 2013

On behalf of the Coquille Indian Tribe, I congratulate the National Indian Gaming Commission (NIGC) for proposing to clarify the regulatory status of one touch electronic bingo systems to eliminate the confusion generated by the 2008 negative action on the Metlakatla Ordinance. The Commission's proposal will resolve the dangers posed by uncertainty and confusion inherent in the NIGC's previous actions that attempted to impose additional requirements on the play of bingo – far beyond the requirements of the Indian Gaming Regulatory Act, unsupported by judicial interpretations of the IGRA, and certainly in violation of the express intent of the drafters of the Act that tribes have maximum flexibility in the use of technology in the play of class II games.

I agree that the NIGC should act to clarify its intention to follow the statute, the legislative history, and the courts' interpretation of that controlling law – and clarify that technologically assisted bingo requires satisfying the three statutory elements of bingo, and no additional requirements to constitute a bingo game. As long as a player is competing against other players, and not against a machine, the NIGC has no authority to attach legal significance to the number of times a player must act to request a bingo system to assist the player to participate in an ongoing game.

The Courts have previously advised that IGRA permits bingo to be played using an electronic draw in place of bingo balls, using electronic cards, and through electronic daubing/covering of designations on those cards to determine a range of prizes. The courts have found no need to add criteria beyond those established by Congress in the IGRA. As long as electronic one touch bingo systems follow those requirements, then IGRA's explicit authorization of class II technological aids should not be administratively diminished.

The NIGC's proposal is particularly timely for the Coquille Tribe. Our people are still struggling to recover from 35 years of Termination, culminating in congressional Restoration in 1989. Since 1995 we have operated a successful class III facility in North Bend, Oregon. However, income from this facility is no longer adequate to meet the basic economic needs of

our growing tribal population. Because our Constitution prohibits per capita distributions from gaming revenue, we allocate our gaming revenues, along with our timber revenues, to provide our people tribal housing, education, health care, disease prevention, head start, justice, peacegiving and culture programs, and other services.

We did not oppose the construction of a larger gaming facility by our nearby neighbors, because we support the rights of all tribes to exercise their sovereign powers to provide for their citizens. Our underlying governmental philosophy has always been to take only what we need, and to leave the rest for others. But now more is needed to provide the basic services for our people.

We are in the process of developing a modest class II facility in a remodeled bowling alley in Medford, Oregon, on a site located within the five counties designated by Congress as eligible for our restored reservation. We chose a class II facility in part because we would not need to negotiate with a governor who has indicated flat opposition to a second compacted facility, notwithstanding our having reserved our rights to do so by the terms of our compact. We are pleased that IGRA gives us an option to develop class II without concessions to state agencies. This new revenue stream is critical to ensure the ongoing livelihood of our members and to continue to provide basic governmental services for our members.

But as we pursue this project, instead of being able to focus on addressing the needs of our people, we confront frivolous arguments and distractions, interposed to cost resources and delay. One of those arguments relies on the cloud over class II gaming created by the Metlakatla decision – and seeks to portray our development as just another slot facility. It is not that, and will not be. But the public does not understand these subtle yet important distinctions, and the NIGC's prior actions do not provide clear guidance. We are pleased with the NIGC's effort to issue an official statement consistent with IGRA's mandate that explains the permissible and distinctive standards for class II bingo systems – and that one touch games are expressly within the NIGC's understanding of class II under the IGRA.

We are pleased that the NIGC is taking steps to bring its official position in line with the statute, the courts and Congress. We ask that the NIGC proceed with the clarification, as proposed, and not only approve the Metlakatla ordinance, but withdraw prior classification opinions to the extent that they are similarly inconsistent with IGRA, and with tribes' rights to conduct class II gaming through technological aids.

Thank you for conducting this consultation. The Tribe expects to provide formal comments before the close of the comment period.