



Nez Perce

TRIBAL EXECUTIVE COMMITTEE

P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

May 26, 2011

Kathy Zebell
National Indian Gaming Commission
1441 L Street, NW, Suite 9100
Washington, DC 20005

Re: NIGC Consultation Policy

The Nez Perce Tribe would like to provide the following comments concerning the NIGC's consultation policy. The Tribe commends the NIGC for its revised consultation policy. The policy as it is written complies with Executive Order 13175, Consultation and Coordination with Tribal Governments. The consultation policy is a positive step forward to foster respectful and meaningful Government-to-Government consultation between Tribal Governments and the NIGC.

The Tribe remains concerned however that the NIGC, as a commission within the Department of the Interior, should follow the administrative rules for all Federal agencies, including:

- Executive Order 12866, Regulatory Planning and Rulemaking (recently amended by Executive Order 13497 to restore the Vice President's oversight responsibilities);
- The Unfunded Mandates Act;
- The Regulatory Flexibility Act; and
- The Federal Advisory Committee Act.

The Nez Perce Tribe respectfully requests that the draft policy on consultation be amended to incorporate the requirements of these federal laws and policies. By failing to adhere to these federal laws impacting tribal consultation, the NIGC's recent process on regulatory rulemaking was defective. For example, the 2009 Facility Licensing rules were promulgated with only a 45-day comment period. The facility licensing regulation should be withdrawn and revised to be consistent with the IGRA and re-issued for consultation with Indian tribes. Concerning the Class

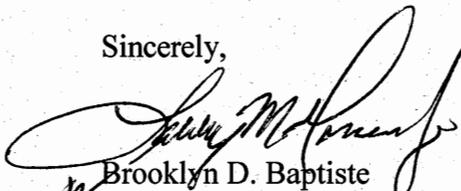
If regulations, the NIGC did not provide for tribal gaming regulatory review and did not make any of the reasonable changes recommended by tribal governments.

In the past when an Indian tribe has identified an operational concern or regulatory issue, the NIGC has reacted by issuing a Notice of Violation which inhibits further Tribal cooperation. Instead, the NIGC should send an initial letter of inquiry detailing their concerns and work with Tribes to assure tribal regulatory compliance without imposing fines or unnecessary penalties.

The Nez Perce Tribe appreciates the steps you are currently taking with regards to consultation. The Tribe believes the NIGC's new approach is a reflection of the fact that while the NIGC may have approximately 100 regulators, Tribal Governments employ more than 3,000 tribal regulators and regulatory staff. Therefore, it is imperative that the NIGC should act to promote best practices for Indian gaming regulation, assist tribal governments to build strong tribal regulatory agencies, and promote voluntary compliance with Indian gaming regulations.

Thank you for your thoughtful consideration of this comment.

Sincerely,



Brooklyn D. Baptiste
Chairman