



The Confederated Tribes of the Colville Reservation
OFFICE OF THE COLVILLE BUSINESS COUNCIL CHAIRPERSON
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May 31, 2011

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

RE: NIGC Consultation Policy

Dear Ms. Zebell:

I write on behalf of the Confederated Tribes of the Colville Reservation concerning the NIGC's consultation policy. We commend 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.

We remain 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.

We respectfully request that the draft policy on consultation be amended to incorporate the requirements of those federal laws and policies. By failing to adhere to those 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 The facility licensing regulation should be withdrawn and revised to be consistent with the IGRA and re-issued for consultation with Indian tribes.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 II regulations, the NIGC did not provide for the tribal gaming regulations review and has not adopted any of the reasonable changes recommended by tribal governments.

In the past when an Indian tribe has identified an operational concern or regulatory issues, the NIGC has reacted by issuing a Notice of Violation which inhibits further Tribal

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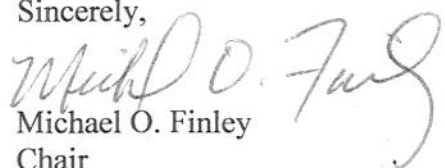
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cooperation. Instead, the NIGC should send an initial letter of inquiry detailing their concerns and work with Tribes to assure tribal regulatory compliance without imposing fines or unnecessary penalties.

We appreciate the steps you are currently taking with regards to consultation. The Colville Tribes believes the NIGC's new approach is a reflection of the fact that Tribes are the primary regulators of Indian gaming with hundreds of gaming tribes across the United States. Therefore, it is imperative that the NIGC should act to promote best practices for Indian gaming regulation, assist tribal government to build strong tribal regulatory agencies, and promote voluntary compliance with Indian gaming regulations.

Thank you for your thoughtful consideration of this comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael O. Finley".

Michael O. Finley

Chair

Colville Business Council