

National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-19-01

To: Soboba Band of Luiseño Indians
Attn: Scott Cozart, Chairman
23904 Soboba Road
San Jacinto, CA 92583

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Soboba Band of Luiseño Indians (Tribe), located in San Jacinto, California, has violated NIGC regulations by failing to provide notice of intent to license the Soboba Casino Resort at least 120 days before opening.

2. Authority

Under IGRA and NIGC regulations, the Chairman of the NIGC (Chairman) may issue a Notice of Violation (NOV) to any person for violation of any provision of the IGRA, NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairman. 25 U.S.C. § 2713; 25 C.F.R. § 573.3.

3. Applicable Federal Laws

- A. IGRA requires tribes to issue a separate license for each place, facility, or location on Indian lands at which gaming is conducted. 25 U.S.C. § 2710(b)(1).
- B. NIGC regulations define “facility license” as the license issued by a tribe to each place, facility, or location on Indian lands where the tribe elects to allow class II or III gaming. 25 C.F.R. § 502.23.
- C. NIGC regulations require tribes to submit to the Chairman notice (Facility License Notice) that a facility license is under consideration for issuance at least 120 days before opening any new place, facility, or location on Indian lands where class II or III gaming will occur. 25 C.F.R. § 559.2(a).

4. Role of the Facility License Notice

- A. A Facility License Notice is necessary to ensure that each place, facility, or location where class II or III gaming will occur is located on Indian lands eligible for gaming. 25 C.F.R. § 559.1(a).
- B. The Facility License Notice must contain the name and address of the property, a legal description of property, and other documentation of the property's ownership. 25 C.F.R. § 559.2(b).
- C. To be timely, the Facility License Notice must be submitted to the NIGC at least 120 days before a new gaming facility opens to allow adequate time for review of the submitted documentation. Tribes may request, and the Chairman may grant or deny, an expedited 60-day review period. 25 C.F.R. § 559.2(a).

5. Circumstances of the Violation

- A. The Tribe is a federally recognized Indian tribe with tribal headquarters in San Jacinto, California.
- B. On January 28, 2019, the Tribe submitted a Facility License Notice for the Soboba Casino Resort, a new gaming facility located in San Jacinto, California. The Tribe requested that the Chairman grant a 60-day expedited review period.
- C. On February 20, 2019, twenty-three (23) days after submitting the Facility License Notice, the Tribe opened the Soboba Casino Resort and conducted gaming within the facility.
- D. On February 26, 2019, the Chairman denied the Tribe's request for expedited review of the Facility License Notice. The Chairman noted that the Tribe opened the Soboba Casino Resort before either the 120-day, or 60-day review period expired.
- E. Therefore, the Tribe failed to submit the Facility License Notice 120 days prior to opening the Soboba Casino Resort.

6. Measures Required to Correct the Violation; Letter of Concern

- A. No remedial action can correct the violation of failing to timely submit notice that a facility license was under consideration for issuance before opening the Soboba Casino Resort.
- B. A letter of concern was not issued to the Tribe prior to issuing this NOV because the violation occurred upon the opening of the Soboba Casino Resort and no remedial action was available.

7. Appeal

The Tribe may appeal this NOV within 30 days of service. The Tribe may either (1) request a hearing before a Presiding Official under 25 C.F.R. Part 584, or, (2) may waive its right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions pursuant to 25 C.F.R. Part 585. In any event, an appeal of this NOV should be submitted to the NIGC at the following address:

NIGC Attn: Office of General Counsel
1849 C Street NW
Mail Stop #1621
Washington, DC 20240

The Tribe has a right to assistance of counsel in such an appeal. If you file a notice of appeal, you must refer to this NOV-19-01.

If the Tribe elects to have a hearing, the Tribe must file a brief with the Commission (within ten (10) days of filing a notice of appeal). The brief must state with particularity relief desired, and the grounds in support including, availability, and supporting evidence in the form of affidavits. If the Tribe prefers a closed hearing, it must include, with the brief, a request to do so and why. If the Tribe wishes to present oral testimony or witnesses at the hearing, the Tribe must include a request to do so with the brief. The request to present oral testimony or witnesses must specify the names of proposed witnesses and the general nature of their expected testimony. The Tribe may waive its right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.

8. Fine-Submission of Information

The violation cited above may result in the assessment of a civil fine against the Tribe in an amount not to exceed \$52,596 per violation per day. Under 25 C.F.R. § 575.5(a), the Tribe may submit written information about the violation to the Chairman within 15 days after service of this NOV (or such longer period as the Chairman may grant for good cause). The Chairman shall consider any information submitted in determining the facts surrounding the violation and the amount of the civil fine, if any.

Dated this 9th of April, 2019.


Jonodev O. Chaudhuri
Chairman

CERTIFICATE OF SERVICE

I certify that this **NOV-19-01** was sent by email and certified U.S. mail, return receipt requested, on this 9th day of April, 2019 to:

Soboba Band of Luiseño Indians
Attn: Scott Cozart, Chairman
23904 Soboba Road
San Jacinto, CA 92583



Shakira Ferguson
Legal Staff Executive Administrator