

NOTICE OF VIOLATION

NOV-04-01

To: Priscilla Hunter, Chairman (Agent for Service of Process)

Coyote Valley Band of Pomo Indians

P.O. Box 39

7751 North State Street

Redwood Valley, CA 95470

Donald Trimble

General Manager Shodakai Casino

7751 North State Street

Redwood Valley, CA 95470

1. The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Coyote Valley Band of Pomo Indians (hereafter referred to as "Respondent"), located in Redwood Valley, California, is in violation of the Indian Gaming Regulatory

Act (IGRA), NIGC regulations and its Gaming Ordinance for operating Class III gaming devices and table games without a Compact.

2. Authority. Under regulations of the National Indian Gaming Commission, the Chairman of the NIGC (hereinafter “Chairman”) may issue a Notice of Violation (hereinafter “NOV”) to any person for violation of any provision of the Indian Gaming Regulatory Act, NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairman. 25 C.F.R. § 573.3. Under 25 U.S.C. 2713(a)(3) the Chairman shall provide the tribal operator of an Indian game with a written complaint stating the act or omissions which form the basis for the belief that a violation of IGRA, NIGC regulations, or by tribal regulations or ordinances and the action being considered by the Commission.

3. The circumstances of the violation are:

- A. Respondent is a federally recognized Indian Tribe with tribal headquarters in Redwood Valley, California.
- B. Respondent engages in gaming operations on tribal lands located at 7751 North State Street, Redwood Valley, California, and does not have a compact with the State of California that would allow Respondent to operate Class III gambling devices.
- C. On March 25, 2004, the Chairman of the NIGC informed the Tribe that they were operating Class III gaming devices and table games in violation of IGRA and requested that they cease such activity by April 30, 2004.
- D. During a visit on May 3, 2004, to Respondents gaming operation, representatives of the NIGC observed the operation of Class III gaming devices and Class III table games.

E. The Class III game devices observed were marked with an in-house numbering of 1053-1062 (known as Native Nickels), 1064-1073 (known as Native Nickels), 1100-1107 (known as Dream Catcher), 1155-1163 (known as Shodaki; Flaming 7's; Diamond 7's; Diamond Delight; Red, White and Blue 7's; Midnight 7's; and Flamingo 7's), 1164-1189 (known as Shodaki; Flaming 7's; Diamond 7's; Diamond Delight; Red, White and Blue 7's; Midnight 7's; and Flamingo 7's), 1190-1198 (known as Shodaki; Flaming 7's; Diamond 7's; Diamond Delight; Red, White and Blue 7's; Midnight 7's; and Flamingo 7's), 1199-1208 (known as Shodakai; American Gold; Rockin Reels; Dynamite Diamonds; Flaming 7's; Diamond 7's; Diamond Delight; Red, White, and Blue 7's; and Midnight 7's), 1209-1228 (known as Shodakai; American Gold; Rockin Reels; Dynamite Diamonds; Flaming 7's; Diamond 7's; Diamond Delight; Red, White, and Blue 7's; and Midnight 7's), 1255-1270 (known as Shodakai; American Gold; Rockin Reels; Dynamite Diamonds; Flaming 7's; Diamond 7's; Diamond Delight; Red, White, and Blue 7's; and Midnight 7's), 1370-1372 (known as Dream Catcher), 1373-1384 (known as American Gold), 1512-1515 (known as U Pick Em Crazy Ball Keno), 1522-1524 (known as U Pick Em Crazy Ball Keno), 1538-1550 (known as U Pick Em Crazy Ball Keno), 2001-2012 (known as Tropical Treasures), 2013-2042 (known as King's Ransom and Fat Cat), 2125-2144 (known as Dream Catcher), 2145-2154 (known as Jack of All Games), 2297-2303 (known as Prospector's Paradise and Red Hot Ice), 2322-2328 (known as Prospector's Paradise and Red Hot Ice), 3043-3052 (known as Double Diamond, Red, White, & Blue; Double Diamond Deluxe; Double Cherry Bar; Black Jack; Red, White & Blue Deluxe; and Black Cherry), 3074-3082 (known as Double Diamond; Red, White, & Blue; Double Diamond Deluxe; Double Cherry Bar; Black Jack; Red, White & Blue Deluxe; and Black Cherry), 3083-3090 (known as Double Diamond; Double Hearts; Seven Seas; Triple Sapphires; Double Jackpot; Haywire; Red, White & Blue), 3091-3099 (known as Double Diamond; Double Hearts; Seven Seas; Triple Sapphires; Double Jackpot; Haywire; Red, White & Blue), 3108-3115 (known as 4th of July; Haywire; Mag 7; Jurassic Jackpots; Triple Diamonds; Double Cherry Bar; Time Warp; Sierra Silver; Ten Times Pay; Kangaroo; Double Diamond; and Red, White & Blue), 3117-3124 (known as 4th of July; Haywire; Mag 7; Jurassic Jackpots; Triple Diamonds; Double Cherry Bar; Time Warp; Sierra Silver; Ten Times Pay; Kangaroo; Double Diamond; and Red, White & Blue), 3245-3254 (known as Shodakai Nevada Club), 3286-3296 (known as Wild Diamonds; Satellite; Money Storm; Chaos; Super Stars; Triple Dollars; Triple Wild; Double Jackpot Haywire; Seven Seas; and Haywire), 3329-3331 (known as Tropical Treasures), 3332-3349 (known as Double Diamond; Red, White, & Blue; Double Diamond; Red, White, & Blue; Double Diamond Deluxe; Double Cherry Bar; Black Tie; Red, White, & Blue Deluxe; and Wild Cherry), 4304-4309 (known as Prospector's Paradise and Red Hot Ice), 4317-4321 (known as Prospector's Paradise and Red Hot Ice), 5063

(known as Shodakai Black Jack), 5271-5275 (known as Dream Catcher; Shodaki; and Prospector's Gold), 5310-5313 (known as Dream Catcher; Joker Poker; Shodakai; and Midnight 7's), 5315 (known as Midnight 7's), 5350-5356 (known as Triple Diamond, Triple Play; Double Diamond; Red, White, & Blue; Wild Cherry; and Black Jack), 5363-5369 (known as Triple Diamond, Triple Play; Double Diamond; Red, White, & Blue; Wild Cherry; and Black Jack), 6314 (known as Midnight 7's), 6316 (known as Prospector's Gold), 6357-6362 (known as Triple Triple Diamond; Double Diamond; Slam Dunk; Knock Down; and Black Jack), and 9276-9285 (known as Shock Wave).

- F. The Class III table games observed were four house banked Black Jack tables and one house banked Pai Gow table.
 - G. There are an additional 39 gaming machines at the facility. The Chairman takes no position, at this time, on whether these 39 games constitute Class III gaming.
4. Respondent is in violation of IGRA, NIGC regulations, and the tribal gaming ordinance as follows:
- A. 25 U.S.C. 2710(d)(1)(C) – Class III gaming activities shall be lawful on Indian lands only if such activities are conducted in conformance with a Tribal-State compact.
 - B. 25 C.F.R. § 573.6(a)(11) – Operation of Class III games in absence of a tribal- state compact is a substantial violation
 - C. Section 5 of the Coyote Valley Band of Pomo Indians gaming ordinance – Class III gaming shall be conducted in accordance with any tribal-state compact between the Tribe and the State, or any alternative thereto as provided by IGRA.

- D. Under 25 C.F.R. § 502.4 of the NIGC's regulations, Class III gaming means all forms of gaming that are not Class I gaming or Class II gaming specifically including (but not limited to) any slot machines as defined in 15 U.S.C. §1171(a)(1) and electronic or electromechanical facsimiles of any game of chance.
- E. The machines identified above are not Class I because they are not social games played solely for prizes of minimal value or a traditional form of Indian gaming. 25 C.F.R. §502.2. The machines identified above are not bingo or lotto, and therefore are not class II. 25 C.F.R. §502.3. Since they are not class I or II, the machines are class III. 25 C.F.R. §502.4. Because Respondent does not have a compact with the State of California that authorizes the play of Class III gambling devices at Respondent's gaming facility, Respondent is operating such games in the absence of a tribal-state compact in violation of 25 U.S.C. §2710(d) and 25 C.F.R. §573.6(a)(11).
- F. Under 25 C.F.R. §502.4 of the NIGC regulations house banked games including blackjack and pai gow are considered class III gaming. The table games listed above are house banked and are therefore class III gaming.

5. To correct this continuing violation, Respondent shall:

Cease all gaming activities by noon on Monday June 7, 2004.

6. Appeal.

Within 30 (thirty) days after service of this Notice of Violation, Respondent may appeal to the full Commission under 25 C.F.R. Part 577 by submitting a notice of appeal and, if

desired, request for hearing to the National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005. Respondent has a right to assistance of counsel in such an appeal. A notice of appeal must reference this Notice of Violation.

Within ten (10) days after filing a notice of appeal, Respondent must file with the Commission a supplemental statement that states with particularity the relief desired and the grounds therefore and that includes, when available, supporting evidence in the form of affidavits. If Respondent wishes to present oral testimony or witnesses at the hearing, Respondent must include a request to do so with the supplemental statement. The request to present oral testimony or witnesses must specify the names of proposed witnesses and the general nature of their expected testimony, whether a closed hearing is requested and why. Respondent may waive in writing its right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.

7. Fine--Submission of Information.

The violation cited above may result in the assessment of a civil fine against Respondent in an amount not to exceed \$25,000 per violation per day. Under 25 C.F.R. § 575.5(a), Respondent may submit written information about the violation to the Chairman within 15 days after service of this notice of violation (or such longer period as the Chairman of the Commission 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.

8. Closure

Under 25 U.S.C. § 2713(b)(1) the violation cited above may result in the closure of the gaming facility.

Dated this 4th day of June, 2004

//s//

Philip N. Hogen

Chairman

National Indian Gaming Commission

//s//

John R. Hay

Staff Attorney