

NATIONAL
INDIAN
GAMING
COMMISSION

DEC 10 1993

Howard Dickstein
Dickstein & Merin
2001 P Street
Suite 100
Sacramento, California 95814

Dear Mr. Dickstein:

This letter responds to your request to review and approve the tribal gaming ordinance submitted on August 19, 1993, for the Jackson Rancheria Band of Miwuk Indians (the Tribe). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that while we have approved the Tribe's gaming ordinance, the Tribe must still modify the description of procedures for conducting background investigations on key employees and primary management as discussed with the NIGC staff. Specifically, the description of procedures designates the Joint Management Committee of the Jackson Indian Bingo and Casino to conduct background investigations and make suitability determinations on key employees and primary management officials. Because conducting background investigations and making suitability determinations is a governmental responsibility, it is inappropriate for the Joint Management Committee of the Jackson Indian Bingo and Casino to perform these duties. Also, the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Jackson Rancheria Band of Miwuk Indians for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope
Chairman

JACKSON INDIAN RANCHERIA

RESOLUTION

- WHEREAS,** the Jackson Rancheria Band of Miwuk Indians is a federally recognized Indian Tribe; and
- WHEREAS,** the General Council of the Jackson Rancheria is the Band's governing body; and
- WHEREAS,** the Band is engaged in various forms of Class II gaming on the Rancheria and is presently negotiating a Class III tribal-state compact with the State of California; and
- WHEREAS,** the National Indian Gaming Commission has now promulgated regulations, which contain explicit requirements concerning gaming employee licensing, background checks, and related matters; and
- WHEREAS,** the Band wishes to ensure that its Class II gaming operations comply with these new regulations; and
- WHEREAS,** the Band believes that the new regulations will further enhance the Tribe's capability to ensure that its Class II gaming operations are managed honestly and efficiently; and
- WHEREAS,** the Band wishes to designate the Amador County Sheriff's Department to carry out criminal history checks on key employees and primary management officials; and
- WHEREAS,** the Band wishes to designate its counsel, Howard Dickstein, as its agent for service of process for official communications from the National Indian Gaming Commission;

NOW THEREFORE BE IT RESOLVED that the General Council hereby enacts the Class II Gaming Ordinance attached hereto, and authorizes its Chairperson, Margaret Dalton, to execute the ordinance and submit said ordinance with all accompanying documents required to the National Indian Gaming Commission for review and approval.

CERTIFICATION

The foregoing resolution was adopted by a vote of 11 for, and 0 against and 0 abstentions, at a duly called meeting of the General Council, at which a quorum was present, on this 12th day of August, 1993.


Margaret Dalton, Chairperson

ORDINANCE NO. _____

TRIBAL CLASS II GAMING ORDINANCE

I. Purpose

The General Council of the Jackson Rancheria Band of Miwuk Indians (hereinafter "Tribe"), empowered by the Tribe's Constitution to enact ordinances, hereby enacts this ordinance in order to set the terms for Class II gaming activities on tribal lands.

II. Gaming Authorized

All forms of Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7)(A) ("IGRA") are hereby authorized, including but not limited to bingo, pulltabs, and non-banking card games.

III. Ownership of Gaming

The Tribe shall maintain the sole propriety interest in and responsibility for the conduct of all Class II gaming activities authorized by this ordinance.

IV. Use of Gaming Revenue

A. Net revenues from the Tribe's share of Class II gaming activities authorized herein shall be used only for the following purposes: to fund tribal government operations and programs; provide for general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments, it shall authorize such payments only upon approval of a plan submitted to the Secretary of Interior under § 2710(b)(3) of IGRA.

V. Audit

An annual independent audit of all gaming activities, including all contracts for supplies, services or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be conducted and provided to the National Indian Gaming Commission (hereinafter "Commission") annually.

VI. Environmental Protection

The construction, maintenance and operation of Class II gaming facilities and Class II games shall be conducted in a manner which adequately protects the environment and the public health and safety.

VII. Licenses for Key Employees and Primary Management Officials

The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any Class II gaming enterprise operated on tribal lands:

A. Definitions

For the purposes of this section, the following definitions apply:

1. Key employee.

(a) A person who performs one or more of the following functions:

- (1) Bingo caller;
- (2) Counting room supervisor;
- (3) Chief of security;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit boss;
- (7) Dealer;
- (8) Croupier;
- (9) Approver of credit; or

(10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

(b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

(c) If not otherwise included, the four most highly compensated persons in the gaming operation.

2. Primary Management Official.

(a) The person having management responsibility for a management contract;

(b) Any person who has authority:

(1) To hire and fire employees; or

(2) To set up working policy for the gaming operation; or

(c) The chief financial officer or other person who has financial management responsibility.

B. Application Forms

1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

- a. Complete a new application form that contains a Privacy Act notice; or
- b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, section 1001.)

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

- a. Complete a new application form that contains a notice regarding false statements; or
- b. Sign a statement that contains the notice regarding false statements.

C. Background Investigations

1. The Tribe shall request from each primary management official and from each key employee all of the following information:

- a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- b. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
- c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (i)(b) of this section;
- d. Current business and residence telephone numbers;
- e. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

- f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraphs (i)(h) and (i)(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- l. A photograph;
- m. Any other information a tribe deems relevant; and
- n. Fingerprints consistent with procedures adopted by a tribe according to 25 C.F.R. § 522.2(h).

2. The Tribe shall conduct an investigation sufficient to make a determination under subsection (c) below. In conducting a background investigation, the Tribe shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

1. The Joint Management Committee of the Tribe's gaming operation shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or

a primary management official for employment in a gaming operation. If the General Council determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position.

2. The Tribe's gaming operation shall not employ in a key employee or primary management official position a person who has supplied materially false or misleading information with respect to the required information for that person's background investigation under subsection B above.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the Commission

1. When a key employee or primary management official begins work, the Tribe shall forward to the Commission a completed application for employment and conduct the background investigation and determination referred to in subsections A, B, C and D of this section.

2. Upon completion, the Tribe shall forward the report referred to in subsection F of this section to the Commission within 60 days after an employee begins work or within 60 days of the Chairman's approval of this ordinance.

3. The gaming operation shall not employ a key employee or primary management official who does not have a license after 90 days.

F. Report to Commission

1. Pursuant to the procedures set out in subsection E of this section, the Tribe shall prepare and forward to the Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The bases for those conclusions.

e. The Tribe shall include in its report a copy of the eligibility determination made under section D of this section.

2. If a license is not issued to an applicant:
 - a. The Tribe shall notify the Commission; and
 - b. Forward copies of its eligibility determination and investigative report (if any) to the Commission for inclusion in the Indian Gaming Individuals Records System.
3. The Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the Commission or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the Commission receives a report, the Commission notifies the tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the tribe has provided an application and investigative report to the Commission, the Tribe may go forward and issue a license to such applicant.

2. If, within the thirty (30) day period described above, the Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the tribe has provided an application and investigative report to the Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

H. License Suspension

1. If, after the issuance of a gaming license, the Commission receives reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection C above, the Commission shall notify the Tribe that issued a gaming license.

2. Upon receipt of such notification under paragraph (1) above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

3. The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

4. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the Commission of its decision.

VIII. Customer Dispute Resolution Procedure

The general manager of the tribal gaming operation shall attempt to resolve on an informal basis any customer complaints relating to payment of prizes or services and report any such resolution to the governing body of the enterprise. If the complaint cannot be resolved at the general manager level, the customer shall be informed that he/she has the right to present his or her complaint to the governing body of the gaming enterprise, whose decision shall be final.

IX. IGRA Compliance

The Tribe shall ensure enforcement of rules and regulations for all games played to ensure that they conform to the Indian Gaming Regulatory Act and that the games are honest and fair.

X. License Locations

The Tribe shall issue a separate license to each place, facility or location on tribal lands where Class II gaming is conducted under this ordinance.

XI. Repeal

All prior gaming ordinances are hereby repealed.

CERTIFICATION

The foregoing resolution was adopted by a vote of 11 for, and 0 against and 0 abstentions, at a duly called meeting of the General Council, at which a quorum was present, on this 12th day of August, 1993.



Margaret Dalton, Chairperson