

NATIONAL  
INDIAN  
GAMING  
COMMISSION

MAY 31 1995

Mary Ann Andreas, Tribal Chairman  
Morongo Band of Mission Indians  
11581 Potrero Road  
Banning, California 92220

Dear Chairman Andreas:

This letter responds to your request to review and approve the tribal gaming ordinance adopted by the Morongo Band of Mission Indians (Tribe) on March 27, 1995. 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. Such approval does not constitute approval of specific games. 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 Morongo Band of Mission 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,



Harold A. Monteau  
Chairman

**MORONGO BAND OF MISSION INDIANS**  
**GAMING ORDINANCE**

**I. Purpose**

The Morongo Band of Mission Indians, as the beneficial owner of the Morongo Indian Reservation, and acting pursuant to Tribal law in the exercise of its inherent sovereign power to enact ordinances and otherwise safeguard and provide for the health, safety and welfare of the Morongo Indian Reservation and the members of the Morongo Tribe, hereby ordains and establishes this Ordinance for the purpose of authorizing and comprehensively and preemptively regulating the terms and conditions under which Class II and Class III gaming may be conducted within the boundaries of the Morongo Indian Reservation.

**II. Definitions**

- A. "Morongo Tribal Council" or "Tribal Council" means the elected governing body of the Morongo Tribe as established and defined by Morongo Tribal Law.
- B. "Gaming" or "gambling" means the offering of any games authorized by the Morongo Tribe Gaming Ordinance, except card games played in private homes in which no person makes money for operating the game other than as a player, and to bona fide traditional Indian gambling games, so long as such games are conducted by and for Indian persons at Tribal celebrations or gatherings.
- C. "Gaming operation" means each economic entity that operates games, receives the revenues, issues the prizes, and pays the expenses of the games.
- D. "License" means a written approval of the Morongo Tribal Council authorizing a specific individual to engage in certain gaming activities which may also require approval from the federal government.
- E. "Permit" means a written approval of the Morongo Tribal Council authorizing a specific individual to engage in certain gaming activities that do not require a separate approval from the federal government.
- F. "Employee" has the same meaning as the term is used by the United States Internal Revenue Service. "Key employee" has the meaning defined herein.
- G. "National Indian Gaming Commission" or "NIGC" means the federal gaming regulatory body created by the Indian Gaming Regulatory Act (Public Law 100-497, 25 U.S.C. §2701 et seq.), and as that Act may hereafter be amended.
- H. "Net Revenues" means gross gaming revenues of any gaming operation authorized by the Tribe, less: (1) amounts paid out as, or paid for, prizes; and (2) total

950331-00001  
DCN 950331-03001

gaming-related operating expenses, excluding management fees.

### **III. Gaming Authorized**

A. Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7)(A) ("IGRA") and by regulations lawfully promulgated by the National Indian Gaming Commission ("NIGC"), that now or hereafter may be in effect, is hereby authorized.

B. Class III gaming as defined in IGRA, 25 U.S.C. Section 2703(8) and by regulations promulgated by the NIGC, that now or hereafter may be in effect, is hereby authorized, provided such gaming is also authorized by and consistent with a Tribal-State Compact that has been approved by the Secretary of the Interior and is in effect, or otherwise has been authorized by the Secretary of the Interior or federal law.

### **IV. Ownership of Gaming Facilities and/or Enterprises**

The Morongo Tribe of the Morongo Indian Reservation shall have the sole proprietary interest in and responsibility for the conduct of any gaming facilities and/or enterprise(s) authorized by this ordinance.

### **V. Use of Gaming Revenue**

A. Except as specifically authorized pursuant to Subsection B of this Section, net revenues from Class II and Class III gaming on the Morongo Indian Reservation shall be used only for the following purposes:

- 1) to fund Morongo Indian Reservation Tribal government operations and programs;
- 2) provide for the general welfare of the Morongo Tribe of the Morongo Indian Reservation and its members;
- 3) promote Morongo Indian Reservation economic development;
- 4) donate to charitable organizations; or
- 5) help fund operations of local government agencies.

B. If the Morongo Tribal Council elects to make per capita payments to Morongo Tribe members, it shall authorize such payments only in conformity with a plan submitted to and approved by the Secretary of the Interior pursuant to 25 U.S.C. §2710(b)(3).

### **VI. Audit**

A. The Morongo Tribal Council shall cause to be conducted at least annually an independent audit of all gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission, and to such other agencies as may be required by the

terms and conditions of any Class III compact or other document authorizing Class III gaming on the Morongo Indian Reservation.

B. All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in Subsection A above.

## **VII. Protection of the Environment and Public Health and Safety**

Class II and Class III gaming facilities on the Morongo Indian Reservation shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety, with the Morongo Tribal Council having primary responsibility for assessing the environmental impact of all construction and gaming operations, and taking such measures as it determines may be reasonably necessary to mitigate any adverse environmental impacts as it may identify.

## **VIII. Licenses for Key Employees and Primary Management Officials**

The Tribal Council or its designated gaming regulatory agency is authorized to: conduct or oversee necessary personal background and criminal history investigations of license and permit applicants; approve and deny applications for gaming licenses and permits; issue gaming licenses and permits; restrict, suspend, or revoke licenses and permits or impose penalties or other sanctions established by these regulations against the holder of a license or permit; conduct hearings or other inquiries to consider an applicant's request for a waiver of permit standards; and perform other Tribal Council duties as the Tribal Council may decide. Any designated gaming regulatory agency does not have the authority to contract with the State of California or any other third party, without the prior approval of the Tribal Council, for the performance of background and criminal history investigations.

The Morongo Tribal Council or its designated gaming regulatory agency 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 and/or Class III gaming enterprise operated on Indian lands within the boundaries of the Morongo Indian Reservation:

### **A. Definitions**

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

#### **1. Key employee means**

- (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 means

- (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.

A primary management official may or may not be an employee of the Tribe.

B. Application Forms

1. The following notice shall be placed on the application form of 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, Morongo Tribal Council, 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 the tribe 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 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.  
(18 U.S.C. §1001).

4. The Morongo Tribal Council or its designated gaming regulatory agency 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 Morongo Tribal Council or its designated gaming regulatory agency shall perform background investigations at least as stringent as is required by federal law, and 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 five years: all 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 (1)(b) of this Subsection;
- d. Current business and residence telephone numbers;
- e. A description of any existing and previous business relationships with the Morongo Tribe or any other Indian Tribe, 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 every 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 ten 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 ten years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or (1)(i) of this Subsection, the criminal charge, the name and address of the court involved and the date and disposition;

- k. The name and address of each 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 current photograph;
- m. Any other information the Morongo Tribal Council may deem relevant under the circumstances; and
- n. Fingerprints consistent with procedures adopted by the Morongo Tribal Council or its designated gaming regulatory agency in accordance with 25 C.F.R. §522.2(h).

2. The Morongo Tribal Council or its designated gaming regulatory agency shall conduct an investigation sufficient to make a determination under Subsection D. below. In conducting a background investigation, the Morongo Tribal Council or its agent(s) shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

The Morongo Tribal Council or its designated gaming regulatory agency shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Morongo Tribal Council or its designated gaming regulatory agency 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, the gaming operation shall not license or employ that person in a key employee or primary management official position.

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

1. Before a key employee or primary management official begins work at a gaming operation authorized by this Ordinance, the Morongo Tribal Council or its designated gaming regulatory agency shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Subsection

D of this Section.

2. The Morongo Tribal Council or its designated gaming regulatory agency shall forward the report referred to in Subsection F of this Section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.

3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 60 days.

F. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in Subsection E of this Section, the Morongo Tribal Council or its designated gaming regulatory agency shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

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

2. The Morongo Tribal Council or its designated gaming regulatory agency shall submit, with the report, a copy of the eligibility determination made under Subsection D of this Section.

3. If a license is not issued to an applicant, the Morongo Tribal Council or its designated gaming regulatory agency:

- a. Shall notify the National Indian Gaming Commission; and
- b. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Morongo Tribal Council or its designated gaming regulatory agency shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than

three (3) years from the date of termination or denial of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Morongo Tribal Council or its designated gaming regulatory agency 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 Morongo Tribal Council or its designated gaming regulatory agency has provided an application and investigative report to the National Indian Gaming Commission, the Morongo Tribal Council or its designated gaming regulatory agency may issue a license to such applicant.

2. The Morongo Tribal Council or its designated gaming regulatory agency shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under Subsection G.1. of this Section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Morongo Tribal Council with a statement itemizing its objection(s) to the issuance of a license to a key employee or to a primary management official for whom the Morongo Tribal Council or its designated gaming regulatory agency has provided an application and investigative report to the National Indian Gaming Commission, the Morongo Tribal Council or its designated gaming regulatory agency shall reconsider the application, taking into account the objection(s) itemized by the National Indian Gaming Commission. The Morongo Tribal Council 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 Morongo Tribal Council or its designated gaming regulatory agency receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under Subsection D above, the Morongo Tribal Council or its designated gaming regulatory agency shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Morongo Tribal Council or its designated gaming regulatory agency shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Morongo Tribal Council or its designated gaming regulatory agency shall decide whether to revoke or to reinstate a gaming license. The Morongo Tribal Council shall notify the National Indian Gaming Commission of its decision.

#### **IX. Licensing of Gaming Places, Facilities and Locations**

A separate license shall be required for each place, facility, or location on any lands subject to the gaming jurisdiction of the Tribe, where Class II and/or Class III gaming is to be conducted.

#### **X. Creation of Morongo Tribe Gaming Commission**

A. There is hereby created the Morongo Tribe Gaming Commission, which shall consist of no less than three persons who would themselves qualify for licensing under this Ordinance.

B. The members of the Morongo Tribe Gaming Commission shall be appointed by the Morongo Tribal Council at such time as the Tribal Council determines that the best interests of the Tribe require that the Gaming Commission be activated, and said appointees shall not be removed during their terms of office except for misconduct, neglect of duties or other acts that would render such persons unqualified for licensure hereunder. An affirmative vote of at least four members of the Morongo Tribal Council, taken in an open meeting after a duly-noticed hearing at which the member charged with misconduct shall have the right to hear and present evidence concerning his/her removal, shall be required to remove a member of the Commission. At the request of the member whose removal is at issue, the hearing may be held in executive session. The Morongo Tribal Council also may elect to receive in executive session any evidence public disclosure of which might compromise any on-going law-enforcement investigation, or which might jeopardize any privilege or immunity possessed by the Morongo Tribal Council.

C. There shall be a Chairperson of the Morongo Tribe Gaming Commission, who shall be appointed for a term of two years. The remaining members of the Commission shall be appointed for terms of one year. The Tribal Council shall determine and authorize the compensation to be paid to members of the Morongo Tribe Gaming Commission based upon the Tribal Council's determination of the time required to be expended upon Commission duties and the qualifications of the appointed Commissioners.

D. The Morongo Tribe Gaming Commission shall be authorized and hereby is directed to promulgate, subject to review and approval by the Tribal Council, detailed and comprehensive regulations for the implementation and enforcement of this Ordinance. Said regulations shall describe and establish the rules for each specific Class II and Class III gaming activity to be authorized to be conducted on the Morongo Indian Reservation, and no form of such gaming may be conducted on the Morongo Indian Reservation without prior

approval by the Morongo Tribe Gaming Commission. Pending approval of the Morongo Tribe Gaming Commission's regulations by the Morongo Tribal Council, any interim regulations that the Morongo Tribal Council may adopt shall govern gaming on the Morongo Indian Reservation.

E. The Morongo Tribe Gaming Commission, independent of the Tribal Council, shall have full authority to monitor compliance with this Ordinance and its Regulations, and to investigate and act to prevent any violation(s) thereof.

F. Subject to the approval of the Tribal Council and the appropriation of funds therefor, the Morongo Tribe Gaming Commission shall be authorized to employ such staff as reasonably may be required to fulfill its responsibilities under this Ordinance. Compensation of Commission employees shall be limited to that which is comparable to compensation paid to persons performing similar duties in other governmental gaming regulatory agencies.

G. Subject to the approval of the Tribal Council, the Morongo Tribe Gaming Commission hereby is authorized to establish and impose upon gaming facilities, permittees, applicants and licensees such application, permit and license fees as may be necessary to fully reimburse the Morongo Tribal Council for its actual costs of operating the Morongo Tribe Gaming Commission, enforcing this Ordinance and Morongo Tribe Gaming Commission regulations, processing of licensing and permit applications, and otherwise fulfilling its regulatory responsibilities under IGRA. All such fees shall be collected by the Morongo Tribe Gaming Commission and hereby are continuously appropriated solely for the purposes enumerated in this Subsection.

H. Failure to timely pay any gaming-related fee imposed by the Tribal Council or the Morongo Tribe Gaming Commission, or to comply with any Commission regulation or order, or any other violation of this Ordinance or the terms of any Class III gaming compact authorizing and regulating gaming on the Morongo Indian Reservation, shall be grounds for suspension or revocation of any license or permit issued pursuant to this Ordinance, exclusion of any non-member of the Morongo Tribe from the Morongo Indian Reservation, and imposition of such other sanctions as the Morongo Tribe Gaming Commission may deem appropriate.

I. Any person or entity subject to any sanction or penalty by the Morongo Tribe Gaming Commission shall have the right to appeal such sanction or penalty to the Morongo Tribal Council in accordance with such rules and regulations as may be promulgated by the Tribal Council for that purpose. The decision of the Tribal Council on any appeal shall be final and not otherwise reviewable.

## **XI. Amendments.**

The Morongo Tribal Council is hereby delegated the authority to amend this Ordinance in any manner deemed appropriate to protect what the Morongo Tribal Council

determines to be the best interests of the Morongo Tribe; provided, that the Morongo Tribal Council shall have no authority to enact any amendment to this Ordinance that is less restrictive than the original terms of this Ordinance, or that would constitute a violation of federal law or would be inconsistent with the terms of an approved Tribal-State Class III compact that is in effect.

**XIII. Severability.**

The provisions of this Ordinance are severable. If any part or provision hereof is held void by tribal or federal court or federal agency, the decisions of the court or agency so holding shall not affect or impair any remaining provision of the Ordinance.

**XIV. Repeal**

To the extent that they are inconsistent with this ordinance, all gaming ordinances previously enacted or amended by the Morongo Tribe General Council or Tribal Council are repealed.

CERTIFICATION

This is to certify that the foregoing Ordinance was adopted on 3-27-95, at a duly-called meeting of the Morongo Tribe General Council at which a quorum was present, by a vote of 5 in favor, 0 opposed and 0 abstaining.

Dated: 3-27-95

  
~~Secretary~~  
Tribal Chairperson