

NATIONAL INDIAN GAMING COMMISSION

NOTICE OF VIOLATION

NOV-14-02

TO: Chairman (Agent for Service)
Picayune Rancheria of the Chukchansi Indians
Picayune Rancheria of the Chukchansi Indians Tribal Gaming Commission
46575-B Road 417
Coarsegold, CA 93614

Picayune Rancheria of the Chukchansi Indians Tribal Gaming Commission
Khammy Chhom, Executive Director
46575-B Road 417
Coarsegold, CA 93614

A. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) gives notice that the Picayune Rancheria of the Chukchansi Indians (Chukchansi Tribe), located in Coarsegold, California, and operating the Chukchansi Gold Resort and Casino (Casino) located at 711 Lucky Lane, in Coarsegold, California, off State Route 41, has violated the Indian Gaming Regulatory Act (IGRA), the NIGC regulations, and the Chukchansi Tribe's gaming ordinance by failing to submit a timely annual audit, financial statement, and agreed-upon procedure report.

B. Authority

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

C. Applicable Federal and Tribal Laws

1. **25 U.S.C. § 2710(b)(2)(C).** IGRA requires an annual audit of each gaming operation and requires that a copy of the results of the annual audit be submitted to the NIGC.

2. **25 C.F.R. §§ 571.12 and 571.13.** NIGC regulations require that a tribe engage an independent certified public accountant to provide annual independent audits of the financial statements of each gaming operation on Indian lands for each fiscal year and submit a copy of the financial statements and audits, with any management letter(s) and other documents/reports setting forth the results of the annual audit(s) to the NIGC within 120 days after the end of each gaming operation's fiscal year.
3. **25 C.F.R. §§ 542.3(f) and 543.23(d).** NIGC regulations require that a tribe engage a certified public accountant to perform an assessment to verify whether the gaming operation is in compliance with NIGC Minimum Internal Control Standards (MICS) and/or the Tribal Internal Control Standards (TICS) for each fiscal year and submit the agreed-upon procedures report to the NIGC within 120 days of the end of each gaming operation's fiscal year in conjunction with the submission of the annual financial audit report.
4. The Tribal Gaming Ordinance of the Picayune Rancheria of the Chukchansi Indians approved by the NIGC Chairman on April 16, 2010, has the following requirements:

a. **Section 1.3; Policy.**

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1.3.6 Tribal Class II Internal Control Standards: The Tribe voluntarily, through this Tribal Gaming Ordinance, shall maintain minimum internal control standards ("MICS") that equal or exceed those set forth in 25 C.F.R. 542 (as in effect on October 1, 2006). The Tribe will work with NIGC to ensure compliance with MICS regulations.

b. **Section 4.18; Powers of the Board of Commissioners:**
In furtherance, but not in limitation, of the Tribal Gaming Commission's purposes and responsibilities, and subject to any restrictions contained in this Ordinance or other applicable law, the Board of Commissioners shall have, and is authorized to exercise by majority vote, the following powers in addition to all power already conferred by this Ordinance:

4.18.1 To enforce this Ordinance, the IGRA, the Tribal MICS, the Compact, and the regulations of the Tribal Gaming Commission over all Gaming within the jurisdiction of the Tribe, provided that none of the Board of Commissioners, any individual Commissioner nor any employee of the Tribal Gaming Commission shall make

management decisions as to the day-to-day operations of the Gaming Enterprise.

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- 4.18.20 To require the filing of any records, forms, and reports and all other information desired by the Tribal Council or required by this Ordinance.

c. **Section 6.3; Audit Requirements.**

6.3.1 The Enterprise shall provide a copy of an annual independent audit to the Tribal Gaming Commission, the Tribal Council, the State Gaming Agency, and National Indian Gaming Commission.

6.3.2 Each contract between the Tribe and another Person for supplies, services (other than legal and accounting services) or concession of a contract amount in excess of Twenty-five Thousand Dollars (\$25,000) annually shall be subject to an independent audit. Such audit shall be solely limited to monthly printout from the accounts payable of the Gaming Operations of the checks rendered. A copy of such audit will be provided to the Tribal Gaming Commission, the Tribal Council, State Gaming Agency and the National Indian Gaming Commission.

d. **Section 8.2; Minimum Internal Control Standards.**

8.2.1 Applicable Standards. The Tribal Gaming Commission shall comply with 25 C.F.R. part 542 by formally adopting and making applicable to the Tribe's Gaming operation(s) internal control standards that: (1) provide a level of regulatory control that equals or exceeds that set forth in 25 C.F.R. part 542, as published or as revised by mutual agreement between the National Indian Gaming Commission and the Picayune Rancheria of the Chukchansi Indians;

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8.2.2 Annual CPA Testing of Compliance. In order to verify that the Gaming operation is in compliance with the internal control standards adopted pursuant to Section 8.2.1, an independent certified public accountant (CPA)

shall be engaged annually to perform “Agreed-Upon Procedures” in the manner provided for in 25 C.F.R. 542.3(f).

e. **Section 9.5; Audit Requirements.**

9.5.1 Annual Enterprise Audit. The Tribal Gaming Commission and the General Manager of the Enterprise shall obtain an annual independent audit of such Enterprise by a certified public accountant using the accounting standards for audits of casinos of the American Institute of Certified Public Accountants.

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9.5.3 A copy of such audits shall be provided to the Tribal Gaming Commission, the Tribal Council, State Gaming Agency and the NIGC.

D. Role of Independent Audit Report and Agreed-Upon Procedure Report

Submission of the annual independent audit report and agreed-upon procedure (AUP) report by a certified public accountant is critical to the NIGC’s mission to protect the integrity of Indian gaming. An independent certified public accountant's ability to conduct an audit in accordance with generally accepted auditing standards and render an opinion on the financial statements prepared in conformity with generally accepted accounting principles provides a certain level of assurance as to the security of tribal gaming revenues. The AUP report is an evaluation of the gaming operations system of internal controls by measuring compliance with the TICS that were adopted by the tribal gaming regulatory authority. Both the audit report and the AUP report prepared and submitted on a timely basis is evidence of, among other things, the integrity of the gaming operation and, more specifically, of the adequacy of the books and records, the functioning of the internal financial controls, and the disclosure of information having a bearing on the financial statements. The failure to submit the audit report or the AUP report deprives the Chairman of his ability to exercise the regulatory role provided in IGRA.

E. Circumstances of the Violation

1. The Chukchansi Tribe is a federally recognized Indian nation with Tribal headquarters in Coarsegold, California.

2. The Chukchansi Tribe has conducted Class II and III gaming in its gaming facility, the Chukchansi Gold Resort and Casino, from June 2003 to the present. In prior financial statements and audits submitted to the NIGC, the fiscal year for the Casino ran from January 1 to December 31. In particular, in the Casino's 2013 fiscal year, the Chukchansi Tribe maintained that same 12-month period as its fiscal year i.e., beginning January 1, 2013, and ending December 31, 2013.
3. IGRA requires that tribes submit annual audits of each gaming facility. 25 U.S.C. § 2710(b)(2)(C). NIGC regulations require that a tribe engage an independent certified public accountant to provide annual independent audits of the financial statements of each gaming operation located on Indian lands for each fiscal year. The NIGC regulations further require a tribe submit a copy of the financial statements and audits, with any management letter(s) and other documents/reports setting forth the results of the annual audit(s) to the NIGC within 120 days after the end of each gaming operation's fiscal year. Further, the Chukchansi Tribe's ordinance requires the Tribal gaming enterprise provide an annual independent audit to the National Indian Gaming Commission.
4. Therefore, the Chukchansi Tribe's 2013 fiscal year financial statement and audit were due to the NIGC on April 30, 2014.
5. The Chukchansi Tribe did not submit the 2013 fiscal year financial statement and audit to the NIGC on April 30, 2014, and have yet to submit the documents.
6. On the May 6, 2014, the attorney for the Chukchansi Tribe's gaming commission sent a letter to the NIGC Sacramento Region Director acknowledging the overdue audit and financial statements for the 2013 fiscal year.
7. IGRA provides that the NIGC shall monitor Class II gaming conducted on Indian lands on a continuing basis and may demand access to and inspect all papers, books, and records necessary to carry out its duties. 25 U.S.C. § 2706(b)(1) and (6). NIGC regulations require that a tribe engage a certified public accountant to perform an assessment to verify whether the gaming operation is in compliance with MICS and/or the TICS for each fiscal year and submit the AUP report to the NIGC within 120 days of the end of each gaming operation's fiscal year, in conjunction with the submission of the annual financial audit report. Additionally, the Chukchansi Tribe's gaming ordinance requires an independent certified public accountant to annually perform an AUP assessment in the manner outlined in the NIGC regulations.

8. Therefore, the Chukchansi Tribe's 2013 fiscal year AUP report was due to the NIGC on April 30, 2014.
9. The Chukchansi Tribe did not submit the 2013 fiscal year AUP report to the NIGC on April 30, 2014, and have yet to submit the documents.
10. In violation of IGRA, NIGC regulations, and the Chukchansi Tribe's gaming ordinance, the Chukchansi Tribe has failed to submit to the NIGC an annual independent audit and financial statements for the 2013 fiscal year.
11. In violation of IGRA, NIGC regulations, and the Chukchansi Tribe's gaming ordinance, the Chukchansi Tribe has failed to submit to the NIGC an annual AUP report for the 2013 fiscal year.

F. Measures Required to Correct the Violation.

Financial statements, audits, and AUP reports must be received within 120 days of the end of a gaming operation's fiscal year. 25 C.F.R. §§ 542.3(f), 543.23(d), and 571.13(a). No remedial action can cure the failure to submit the documents. Nevertheless the Chukchansi Tribe should submit to the NIGC within ten calendar days of service of this NOV the 2013 fiscal year audit, financial statement, and AUP report.

G. Appeal

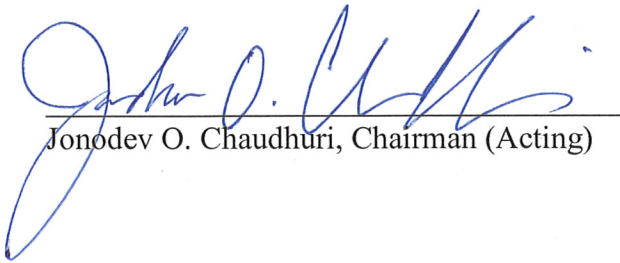
Within 30 days after service of this NOV, any party served with this NOV may appeal, under 25 C.F.R. part 584, by submitting a notice of appeal to the National Indian Gaming Commission, 90 K Street N.E., Suite 200, Mailstop #1621, Washington, DC 20240. The appealing party, the appellant, has a right to assistance of counsel in such an appeal. A notice of appeal must reference this NOV.

Within ten days after filing a notice of appeal, the appellant must file with the Commission a brief that states with particularity the relief desired and the grounds in support and may include, when available, supporting evidence in the form of affidavits. If the appellant wishes for a closed hearing, it must include, with the brief, a request to do so and why. If the appellant wishes to present oral testimony or witnesses at the hearing, it 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 appellant 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, under 25 C.F.R. part 585.

H. Fine; Order of Temporary Closure; Submission of Information

The violation cited above may result in the assessment of a civil fine against the Chukchansi Tribe in an amount not to exceed \$25,000 per violation per day. The violation is of an on-going nature because the Chukchansi Tribe has not yet submitted its fiscal year 2013 financial statements, audits, and AUP reports. The violation cited above may also result in the issuance of an order of temporary closure if the violation is not corrected. Under 25 C.F.R. § 575.5(a), the Chukchansi 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 9 of September, 2014



Jonodev O. Chaudhuri, Chairman (Acting)