



October 23, 2019

*Via U.S. Mail & E-mail*

Commissioner Paul Tate  
Delaware Nation Gaming Commission  
P.O. Box 825  
Anadarko, OK 73005

**Re: Delaware Nation Gaming Ordinance Amendment, Delaware Nation  
Resolution #2019-104**

Dear Commissioner Tate:

This letter is to inform you that the Delaware Nation Gaming Ordinance Amendment enacted by Delaware Nation Resolution #2019-104, submitted to the NIGC as of July 18, 2019, is approved by operation of law.

Pursuant to the Indian Gaming Regulatory Act, the NIGC Chair has ninety days from the date of submission to either approve or disapprove a gaming ordinance.<sup>1</sup> Any ordinance not acted upon at the end of the ninety day period is considered to have been approved by the Chair to the extent it is consistent with the provisions of IGRA.<sup>2</sup> Because no action was taken by the Chair within the ninety day period, the Nation's ordinance is considered approved to the extent that it is consistent with IGRA.

It is the opinion of the Office of General Counsel that the Nation's Gaming Ordinance is substantially compliant with the requirements of IGRA. As previously discussed with our office, we have a concern regarding Section 5.13(B) of the ordinance which states that the Commissioner "shall share any information revealed by [a background check report] to the manager of the gaming facilities which...affects the consideration of an individual for employment." As you are aware, sharing information obtained from FBI criminal history records outside of the licensing process constitutes a violation of the MOU between the Delaware Nation and the NIGC, the "Memorandum of Understanding Regarding the Dissemination of Criminal History Record Information by the NIGC" and the NIGC Privacy Act Notice,<sup>3</sup> among other FBI requirements. Evidence of unauthorized use of CHRI may require the NIGC to discontinue dissemination of such records to the Nation. You have assured our office that despite the language of Section 5.13(B) the Commission does not share any CHRI with the gaming

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<sup>1</sup> 25 U.S.C. § 2710(e).

<sup>2</sup> *Id.*

<sup>3</sup> 25 C.F.R. § 556.2.

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operation. We recommend that the Nation consider amending this section in the future to clarify the Commission's handling of sensitive information.

If you have any questions, please feel free to contact NIGC Associate General Counsel Rea Cisneros at 202-632-7003.

Sincerely,



Michael Hoenig  
General Counsel

**Delaware Nation**

P.O. Box 825  
Anadarko, OK 73005  
405 / 247-2448  
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**Resolution #2019-104**

**RESCINDING RESOLUTION 2019-066 AND RESUBMIT  
DELAWARE NATION GAMING ORDINANCE WITH  
RECOMMENDED CHANGES**

**WHEREAS,** the Delaware Nation is a federally-recognized Indian Tribe that operates in accordance with its Constitution, as ratified on April 21, 1973, as amended from time to time, and recognized by the Secretary of Interior; and

**WHEREAS,** according to Article VI – Powers of the Constitution, “the Executive Committee shall have specific authority...to promulgate and enforce ordinances and codes governing law and order to protect the peace, health, safety, and general welfare of Delaware tribal citizens...”, and generally “shall have full authority to act on behalf of the Nation in all other matters upon which the Nation is empowered to act...”; and

**WHEREAS,** the Delaware Nation’s gaming enterprises are regulated by the Delaware Nation Gaming Ordinance originally approve by the Executive Committee on July 1, 1995, via Resolution 95-33, and approved by the National Indian Gaming Commission (NIGC) on August 10, 1995; and

**WHEREAS,** we wish to rescind Resolution #2019-066 and resubmit the Delaware Nation Gaming Ordinance with the recommended changes in order to more efficiently regulate Indian gaming for the Delaware Nation; and

**WHEREAS,** the Executive Committee wishes to approve the attached Gaming Ordinance, and to submit it to the National Indian Gaming Commission for approval.

**THEREFORE, BASED ON THE FOREGOING, BE IT NOW THEREFORE RESOLVED** that the Delaware Nation Executive Committee hereby rescinds Resolution #2019-066 and resubmits the Delaware Nation Gaming Ordinance to the National Indian Gaming Commission for final approval for use in regulation of the tribe’s gaming facilities.

**CERTIFICATION**

The foregoing resolution was adopted by the Delaware Nation Executive Committee at a duly called Executive Committee meeting held on July 2, 2019, by a vote of 5 For, 0 Against, 0 Abstentions, a quorum being present.

**ATTEST:**

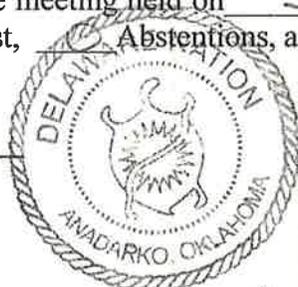
Ann Brower

Ann Brower, Secretary

**APPROVED:**

Deborah Dotson

Deborah Dotson, President



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