



May 25, 2012

*Via Certified U.S. Mail and Facsimile*

Tiger Hobia, Town King  
Kialegee Tribal Town  
627 E. Highway 9  
Wetumka, OK 74883  
Fax: 405-452-3413

Dear Mekko Hobia,

This letter is to inform the Kialegee Tribal Town (the "Tribe"), its business partners and the allottees of the site in Broken Arrow, Oklahoma, (hereinafter "Proposed Site") that the National Indian Gaming Commission ("NIGC") has completed its review of whether the Proposed Site is eligible for gaming by the Tribe pursuant to the Indian Gaming Regulatory Act. For the reasons discussed below, if gaming is commenced on the Proposed Site pursuant to a license issued by the Kialegee Tribal Town, I will exercise my enforcement authority to issue a notice of violation and temporary closure order. *See* 25 U.S.C. § 2713, 25 C.F.R. §§ 573.3(a), 573.6(a)(13).

NIGC staff has been in contact with attorneys for the Tribe since the Tribe submitted the notice to NIGC. Through these communications, NIGC staff repeatedly informed the Tribe that NIGC's review of the eligibility of the Proposed Site for gaming by the Tribe under IGRA was on-going. In approving the Tribe's ordinance amendments, I also reminded the Tribe that this issue remained under consideration.

The Tribe previously submitted a Ground Lease and related subleases for review by the NIGC Office of General Counsel. A legal brief was submitted on January 24, 2011, to support the Tribe's position that the documents did not constitute a management contract under IGRA.<sup>1</sup> The legal brief asserted that the Proposed Site was eligible for gaming pursuant to IGRA. My staff has repeatedly offered the Tribe the opportunity to submit additional supporting documentation or legal argument on the issue of the eligibility for gaming of the Proposed Site.

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<sup>1</sup> On February 9, 2011, the Tribe withdrew its request for a legal opinion as to whether the Ground Lease and related subleases constituted a management contract or violated the sole proprietary interest requirement of IGRA.

On March 7, 2012, the Tribe's attorneys submitted a letter and copies of documents concerning a joint venture agreement between the Tribe, Golden Canyon Partners, LLC, and the two individual landowners of the Proposed Site. As the Tribe is aware, on April 26, 2012, the NIGC Chief of Staff sent a letter to the Tribe, expressing his concern that the arrangement would violate IGRA's management and sole proprietary interest requirements, and advising that if gaming were to proceed under the arrangement, he would recommend that I take an enforcement action.

As to the Proposed Site, the NIGC Office of General Counsel has opined that the Kialegee Tribal Town does not have jurisdiction over it. The Department of the Interior Solicitor's Office concurs in the Office of General Counsel's opinion. I hereby adopt the attached legal opinion, concluding that although the Proposed Site qualifies as Indian land under IGRA, it is not within the Kialegee Tribal Town's jurisdiction because the Tribe has not demonstrated its legal jurisdiction over the parcel.

In light of the above, I direct the Kialegee Tribal Town not to commence gaming under IGRA on the Proposed Site, whether the operation is tribally or individually owned. Operating on Indian lands ineligible for gaming by the Tribe is a violation of IGRA and NIGC regulations. *See* 25 U.S.C. §§ 2703(4)(B), 2710(b)(2) and (d)(1)(A)(i), (d)(2)(A); 2713; 25 C.F.R. §§ 573.3(a), 573.6(a)(13). To that end, if the Tribe commences such gaming, I will exercise my enforcement authority to issue a notice of violation and temporary closure order. *See* 25 U.S.C. § 2713, 25 C.F.R. §§ 573.3(a), 573.6(a)(13).

Sincerely,



Tracie L. Stevens  
Chairwoman

Encl.

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