

**Testimony of Chairwoman Tracie Stevens
National Indian Gaming Commission
Senate Indian Affairs Oversight Hearing
July 29, 2010**

Thank you Chairman Dorgan, Vice Chairman Barrasso, and members of the Committee for inviting me to testify today. It is an honor to appear before you for the first time in my capacity as Chairwoman of the National Indian Gaming Commission (NIGC or Commission). One month ago today on June 29, 2010, I was officially sworn into this position. I want to thank the Committee for its expeditious action on my nomination.

Over the past four weeks, I have worked closely with Vice-Chairwoman Steffani Cochran, Associate Commissioner Dan Little, and Commission staff to begin assessing and evaluating the agency to identify priorities, needs, and opportunities for improvement. My first priority has been to fill much needed key positions within the agency. Last week, I appointed Larry Roberts of the Oneida Tribe of Wisconsin as the new general counsel. I am also in the process of appointing a new chief of staff and filling other vacancies. In addition to the internal work, in the few short weeks on the job, I have also participated in government-to-government consultations with many tribes, most recently in the Pacific Northwest. As a matter of fact, Vice-Chairwoman Cochran and Associate Commissioner Little are unable to join us today because they are conducting consultations with tribes in California. The Commission has scheduled additional consultations this summer and more are anticipated in the coming year. These consultations are the beginning of fulfilling a commitment I made to this Committee and to Indian country to strengthen government-to-government relations with tribes through meaningful and collaborative consultation.

The National Indian Gaming Commission - Powers, Duties, and Responsibilities

The Indian Gaming Regulatory Act (IGRA) makes clear that the tribes, states, and the federal government (through NIGC and DOI) each have defined and distinct regulatory roles to fulfill. As I stated at my confirmation hearing, it is one of my priorities to build a strong collaborative regulatory framework and relationship between all three regulatory bodies.

In terms of the NIGC, the powers, duties, and oversight responsibilities of the Chairwoman and Commission are focused and specific. I would like to take a few moments to walk through some of the primary provisions of IGRA that frame the Commission's role. I will also briefly discuss the relationship between the NIGC and the Department of the Interior (DOI) in three key areas.

Section 2702 states the policy and purpose of IGRA. Among those is "to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue."

Section 2703 defines *Chairman* as "the Chairman of the National Indian Gaming Commission" and *Commission* as "the National Indian Gaming Commission established pursuant to section 2704 of this title."

Section 2704 of IGRA establishes the Commission, stating in part, “There is established within the Department of the Interior a Commission to be known as the National Indian Gaming Commission.”

- The Commission is composed of three full-time members.
- The President, with the advice and consent of the Senate, appoints the Chairman while the Secretary of the Interior appoints the two associate commissioners.
- IGRA provides that “not more than two members of the Commission shall be of the same political party” and “at least two members of the Commission shall be enrolled members of any Indian tribe.”
- The Chairman and the associate commissioners serve three-year terms.

Section 2705 of IGRA enumerates the powers of the Chairman, which are subject to appeal to the full Commission. The Chairman has the power to:

- “issue orders of temporary closure of gaming activities as provided in section 2713(b) of this title”;
- “levy and collect civil fines as provided in section 2713(a) of this title”;
- “approve tribal ordinances or resolutions regulating class II gaming and class III gaming as provided in section 2710 of this title”;
- “approve management contracts for class II gaming and class III gaming as provided in sections 2710(d)(9) and 2711 of this title”; and
- exercise “such other powers as may be delegated by the Commission.”

Section 2706 lists the powers of the Commission. The Chairman is also a voting member of the Commission. Some of the Commission’s powers are not subject to delegation:

- “upon the recommendation of the Chairman, to approve the annual budget of the Commission as provided in section 2717 of this title”;
- “to adopt regulations for the assessment and collection of civil fines as provided in section 2713(a) of this title”;
- “by an affirmative vote of not less than 2 members, to establish the rate of fees as provided in section 2717 of this title”;
- “by an affirmative vote of not less than 2 members, to authorize the Chairman to issue subpoenas as provided in section 2715 of this title”; and
- “by an affirmative vote of not less than 2 members and after a full hearing, to make permanent a temporary order of the Chairman closing a gaming activity as provided in section 2713(b)(2) of this title.”

The Commission's other powers and duties under Section 2706 are subject to delegation to the Chair. Those powers and duties include:

- monitoring "class II gaming conducted on Indian lands on a continuing basis";
- inspecting and examining "all premises located on Indian lands on which class II gaming is conducted";
- conducting "or cause to be conducted such background investigations as may be necessary";
- "demand[ing] access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under the chapter"; and
- "promulgating such regulations and guidelines as it deems appropriate to implement the provisions of this chapter."

The federal role in implementing IGRA is shared between the NIGC and the DOI. As a necessity, for a few years directly following the passage of IGRA and before the Commission began to function, the DOI regulated gaming under IGRA. This changed with the appointment of the first Commission in the early 1990s, when the NIGC fully assumed its share of powers, duties, and responsibilities.

The IGRA reserves three key areas to the DOI, which maintains the sole authority to:

- take land into trust;
- review and approve Class III gaming compacts; and
- review and approve Revenue Allocation Plans.

The relationship between the NIGC and the DOI is very important to all of Indian country. It is my view that communication and cooperation is imperative at all levels to promote the twin purposes of IGRA: to protect Indian gaming through consistent and thoughtful regulation and to fulfill IGRA's goals of tribal self-governance and economic development.

It is evident that the role of the NIGC and the Chairwoman is complex and embodies important oversight responsibilities. I view my job as Chairwoman to lead the NIGC as we fulfill our duties, to live up to our responsibilities, and to exercise our powers with integrity and diligence. I must also provide leadership and a voice within Indian gaming that is meaningful and has substance as the industry continues to provide vital resources for Indian people.

The State of the Industry

Currently, Indian gaming is being conducted in 28 states by 233 of the 564, federally recognized tribes. Tribes have used gaming revenue both to generate jobs and to provide fundamental services to their communities, such as health care, housing, basic infrastructure and education, to name a few. While tribal gaming generates modest to considerable revenues for individual tribes, tribal gaming facilities in some regions simply provide jobs in areas otherwise suffering from high unemployment.

As the primary day-to-day regulators on the ground 24 hours a day, 7 days a week, tribal governments and their regulatory bodies have a vested interest in safeguarding an industry that has greatly contributed to invaluable improvements to their communities. It is a testament to the leadership of tribal governments and the work of their dedicated employees that the Indian gaming industry has remained protected and stable. In 2009, tribal facilities generated \$26.5 billion in gross gaming revenue as compared to \$26.7 billion in 2008. With continued collaboration, the NIGC will work with tribal governments and their employees to ensure the continued protection and success of the industry through diligent, professional oversight and enforcement. Accordingly, while collaborative results are desirable, I commit to upholding the statutory authority and responsibilities of my position to oversee the regulation of Indian gaming, and where appropriate, take enforcement action.

Vision for the Agency

A fundamental policy of IGRA is “to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments,” to ensure the regulatory and statutory compliance of all tribal gaming facilities, and to safeguard tribal gaming operations from organized crime and corrupting influences. As I explained during my confirmation process, my goals for the Commission include working collaboratively with tribes to identify areas of improvement in carrying out this policy. Some of these goals include examining ways to improve the consultation process and the manner in which the Commission provides technical assistance. Another component includes taking a fresh look at the current regulations and whether there exists a need for changes that may be appropriate to the industry today. We are also focused on ensuring strong working relationships with tribal governments to further facilitate statutory and regulatory compliance. Finally, our work includes focusing on the internal operations of the Commission to ensure that the agency is in compliance with all relevant laws, regulations, rules, and executive orders such that our work is appropriately transparent.

My goals are to work collaboratively with Tribes to identify areas of improvement for the agency. I have identified the following priorities:

1. Consultation and Building Relationships

I am a strong supporter of this Administration's commitment to Indian country in terms of nation building, honoring tribal sovereignty and self-determination, and engaging in meaningful consultation with tribes. The Commission is focused on developing a more workable and fulfilling government-to-government consultation process in line with President Obama's November 5, 2009 Memorandum on Tribal Consultation, which directs federal agencies to comply with Executive Order 13175, "Consultation and Coordination with Tribal Governments."

The NIGC will be greatly benefited by complying with this Executive Order and is beginning a renewed outreach to tribes based on this Administration's commitments. The NIGC will renew its government-to-government relationship with tribes and will work together with tribes to define and achieve the regulatory and policy goals of the agency. It is through meaningful government-to-government consultation that the NIGC will be able to make well informed, fully considered decisions concerning regulations and policies.

The Commission is also committed to renewing old relationships and building new ones. Given that all three Commissioners are new to the NIGC, there is an opportunity to work in collaboration with tribes and other regulatory bodies to oversee and protect Indian gaming. One regulatory agency alone cannot do this. It must be a collective effort. In addition to working with tribes, we also will work with other regulatory bodies to promote the integrity of Indian gaming. As part of my initial evaluation process, I plan to examine the regulatory successes in states like my own home state of Washington to identify best practices, determine the possibility of replicating positive aspects of their regulatory frameworks, or perhaps fashion new approaches that may reach the same positive result. By doing this, I hope to renew these relationships in order to strengthen both the agency and the tribes' ability to protect this viable and successful economic development tool that has made a difference in so many lives of Indian people. Rebuilding relationships will also greatly aid in meeting another of my priorities, a review of NIGC's regulatory activity.

2. Review of Past Regulations and Assess Regulatory Needs

It is my view that in previous years the NIGC could have benefitted from additional consultation with tribes in the promulgation of regulations. This would have enhanced tribal relationships and shifted the focus to practical problem solving through such mechanisms as technical assistance. Over the coming months, we will review current regulations, examine their effectiveness, and discuss with tribes their experiences in an effort to identify areas of improvement and any needed changes.

Currently, we are holding regional consultations on outstanding policies, specifically the NIGC NEPA manual, records retention policy, and consultation processes. Before moving forward with any new regulatory initiatives, we will consult with tribes to examine the need for new regulations and identify areas of greatest priority that would support NIGC's oversight responsibility for safeguarding and protecting the industry.

3. Technical Assistance

Of course, successful regulation depends upon a properly trained workforce, and the Commissioners and I view training and technical assistance as a valuable component of the NIGC's mission. Further, the Commission is statutorily required to provide technical assistance to tribes. As such, we are examining ways to more effectively provide information and training. I believe that an emphasis on training and technical assistance will continue to provide a foundation that will help to maintain the integrity and success of Indian gaming.

We are reviewing the NIGC's current technical assistance and training program by asking questions such as:

- Are we meeting the training needs of tribes?
- Does our program correlate with audit findings and compliance issues?
- Are there tribes or regions that have specific needs?

Our review could indicate additional opportunities and approaches for training. Rather than take the exceptions and make rules, the goal is to provide assistance to exceptions in order to bring them into compliance. A good, well-targeted, technical assistance and training program can preempt the need for additional regulations or for enforcement actions, can reduce compliance issues, and can enhance operational performance and integrity.

4. Ensuring Agency Compliance

This goal will require a top-down review of the internal workings of NIGC. As you know, the NIGC is funded by fees paid by the tribes engaged in Indian gaming. Being a good steward of the fees paid by the tribes is a top priority of mine. I want to make certain that the NIGC complies with every applicable law, regulation, rule and executive order so as to give this Committee and the tribes confidence that the NIGC is as concerned with how it runs its own operations as we are about how the tribes run their operations. As such, the Commission intends to undertake a comprehensive review of its budget and spending priorities. A guiding principle of our review and budgeting decisions will be that the NIGC has a responsibility to use tribal resources wisely. As such, our agency expenditures need to be both fiscally responsible and transparent. We will strive, consistent with applicable law, to be transparent with regard to the expenditures of tribal fees for the accomplishment of the NIGC's statutory responsibilities. The Commission is working to ensure that the agency is operating in a manner that uses these tribal resources most efficiently and effectively.

IGRA requires that NIGC comply with the Government Performance Results Act. I will initially review past budgets as well as review the five-year strategic plan (2009-2014). This review will be an agency-wide endeavor that will require the development of an action plan with appropriate timelines. We will consult with tribes as we move forward in this review.

Conclusion

While I have been on the job for only a very short time, I am more committed than ever to working closely with this Committee and Indian country to ensure the integrity of Indian gaming. Thank you again, Chairman Dorgan, Vice Chairman Barrasso and members of the Committee for your time and attention today. I am happy to answer any questions that you may have for me.