



April 11, 2017

Chairman Jonodev Osceola Chandhari
National Indian Gaming Commission
1849 C St. NW
Washington DC, 20240

Re: Request to Invoke 25 CFR Part 573.4, Order of Temporary Closure, at the Desert Rose Casino in Alturas, California

Honorable Chairman Chandhari:

On behalf of a majority of the members of the Alturas Indian Rancheria ("Tribe"), I, in my capacity as Chair and Secretary/Treasurer, respectively request that you invoke the procedures set forth in 25 CFR Part 573.4 and issue an Order of Temporary Closure ("Order") to the Desert Rose Casino ("Casino") located in Alturas, CA. This extraordinary request is made due to the fact that the Bureau of Indian Affairs ("BIA") has recently ruled, on two occasions, that the BIA does not and can not recognize a government of the Tribe, the tribal governmental authority responsible for the operation of the Casino. There are also several other compelling reasons to issue the Order, which I will briefly address in this request, but fundamentally without a tribal governmental authority the entire foundation of the Indian Gaming Regulatory Act ("IGRA") and the Regulations found at 25 CFR Part 501, et. seq. ("Regulations"), fail.

On February 28, 2017, the Superintendent of the Northern California Agency of the BIA issued a Decision, reiterating a prior Decision he issued

on April 19, 2016, that rejected competing requests from two factions of the Tribe for federal funds, stating, in pertinent part, "... because the Agency cannot determine if the resolution supporting the request is from a tribal organization representing the Alturas Rancheria." No appeal of this Decision of the Superintendent was filed with the Regional Director and, as such, is now a final non appealable decision of the BIA. 25 CFR Part 2.6(b).

It is important to note that the Superintendent's Decision of April 19, 2016, referred to in the Superintendent's Decision of February 28, 2017, was appealed to the Regional Director. On January 13, 2017, the Regional Director upheld the Superintendent's Decision of April 19, 2016. The Regional Director stated in her decision upholding the Superintendent, "I affirm the Superintendent's determination that ..(he) cannot exercise his limited authority to recognize a governing body..." of the Tribe. The Decision of the Regional Director was not appealed and, like the most recent Decision of the BIA that there is no recognized government of the Tribe, the Decision of the Regional Director is also a final non appealable decision of the BIA. 25 CFR Part 2.6(b). (The Decisions of the BIA referenced above are attached hereto as Exhibit A)

25 CFR Part 502.13 defines an Indian tribe as "any Indian tribe ... that the Secretary recognizes as - (a) **eligible for the special programs and services** provided by the United States to Indians because of their status as Indians; and (b) **Having powers of self government.**" (emphasis added) The BIA has ruled that the Tribe is not "eligible for the special programs and services provided by the United States to Indians and does not possess the powers of self government". The Decisions of the BIA, on behalf of the United States government, are final non appealable Decisions and are res judicata on the BIA and the NIGC. Simply stated, without a tribal government recognized by the United States the IGRA and its Regulations fail.

It is impossible for an Indian tribe to issue ordinances, licenses or exercise tribal gaming authority over the Casino if no tribal government exists. (25 CFR Parts (3)(4) and (5). The existence of a duly recognized tribal government is at the core of the framework of the IGRA and its Regulations. Without a tribal government it is impossible for a casino to be in compliance with the IGRA or its Regulations. While the Tribe continues to exist, it is not eligible for the special programs and services provided by the United States nor does it possess the power of self government, the very

definition an Indian tribe under the IGRA. The BIA has issued a final non appealable determination that the government of the United States does not recognize any government of this Tribe. This final determination is res judicata on the BIA and the NIGC. You are legally compelled to follow this final non appealable Decision of the BIA and, accordingly, must issue an Order of Closure for the fundamental reason set forth herein.

Additionally, the rogue members of the Tribe that have been operating the Casino during this internal membership and leadership dispute, Phillip Del Rosa and Darren Rose, have also been operating an illegal marijuana cultivation and distribution operation within mere yards of the Casino. While I understand that the NIGC has no jurisdiction over the marijuana operation, it does impact public safety and raises other issues under the jurisdiction of the NIGC. For example, firearms have been observed on the Casino premises carried by individuals associated with the illegal marijuana operation. We also have compelling first hand testimony that the manager of the Casino, Sean Normington, manages both the Casino and the illegal marijuana operation. Messrs. Del Rosa, Rose and Normington launder illegal drug money through the casino by an elaborate scheme of paying employees of the marijuana operation in cash, who in turn take the cash to Sean Normington at the Casino. Mr. Normington then exchanges the cash for a Casino check and the individuals cash the check at the Cashiers Cage in the Casino. I am aware that investigators from the California Region of the NIGC have interviewed former employees of the illegal drug operation and these employees have provided testimony regarding this money laundering scheme. While this fact alone should raise extreme concern for the NIGC, this is just one of many reasons that the Order must be issued as quickly as possible. (25 CFR Part 573.4 (6)(12).)

If you have any questions or wish to be provided with any additional information please feel free to contact me directly or our Tribal Administrator, Wayne Smith. (Eric Schalansky has all our contact information.) Public safety is a major concern, as well as the money laundering of the profits of an illegal drug cartel through the Casino and are in and of themselves more than adequate reasons for the NIGC to issue the Order. However, the fundamental fact that there is no tribal governing authority recognized by the BIA for the Tribe that operates the Casino and that this lack of recognition is a final non appealable binding decision demands the issuance of the Order of Closure. To do otherwise makes the

IGRA and its Regulations worthless. Simply stated, there is no tribe as defined in 25 CFR Part 502.13 operating this Casino and it must be closed immediately.

Sincerely,



Wendy Del Rosa
Chair and Secretary/Treasurer

cc Eric Schlansky, California/Northern Nevada Region Director, NIGC
Phillip Ferrari, Executive Assistant US Attorney, USDOJ
Mike Poindexter, Modoc County Sheriff
Amy Dutschke, Pacific Regional Director, BIA
Dr. Virgil Akins, Northern California Agency Superintenedent, BIA