



UNITED SOUTH AND EASTERN TRIBES, INC.

Resolution No. USET 2001:016

NATIONAL INDIAN GAMING COMMISSION REGULATIONS AND JURISDICTION

WHEREAS, United South and Eastern Tribes Incorporated (USET) is an intertribal organization comprised of twenty-four (24) federally recognized tribes; and

WHEREAS, the actions taken by the USET Board of Directors officially represent the intentions of each member tribe, as the Board of Directors is comprised of delegates from the member tribes' leadership; and

WHEREAS, current National Indian Gaming Commission (NIGC) regulation, 25 C.F.R. § 502.8, defines the terms "electronic or electromechanical facsimile" as "any gambling device as defined" in the Johnson Act (15. U.S.C. § 1175); and

WHEREAS, the Johnson Act is an all encompassing law that has the potential of prohibiting gambling devices, which directly conflicts with the dual purposes of the Indian Gaming Regulatory Act (IGRA), which: (1) foster economic development in Indian country, and (2) shield Indian gaming from corrupt influences; and

WHEREAS, 25 C.F.R. § 502.8 prohibits certain gaming devices that are considered "technologic aids" and thus, Class II games under the Indian Gaming Regulatory Act; and

WHEREAS, on June 22, 2001, the NIGC issued a proposed rule to remove the definition set forth in 25 C.F.R. § 502.8, including the reference to the Johnson Act; and

WHEREAS, this change would bring clarity, uniformity, and consistency to classification determinations of gaming devices by coordinating the NIGC's definitional regulations with the purposes and definitions set forth by Congress in IGRA; and

WHEREAS, several Federal Courts have recognized that it is improper to reference the Johnson Act in a definition of Class III gaming under IGRA; and

WHEREAS, the U.S. Department of Justice has reversed an opinion of its Office of Legal Counsel, which recognized that some Johnson Act devices are permitted "technologic aids" to Class II games, and argues that any game that meets the Johnson Act's definition of "gambling device" is Class III absent a Tribal-State compact; and

WHEREAS, this attempt to create a conflict in the Federal Courts in order to appeal to the U.S. Supreme Court will jeopardize the ability of tribal governments to generate revenue by engaging in Class II gaming operations; therefore, be it

RESOLVED that the USET Board of Directors supports the efforts of the National Indian Gaming Association to amend the definitional provisions of 25 C.F.R. § 502.8 in order to conform that regulation to the terms and objectives of the Indian Gaming Regulatory Act; and, be it further

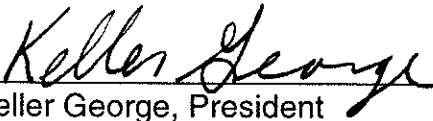
"Because there is strength in Unity"

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RESOLVED that the USET Board of Directors directs the Commercial Law, Legislation, and Economic Development Committee to work with NIGA and other tribal organizations to ensure that the proposed changes to 25 C.F.R. § 502.8 gain the necessary legal approvals.

CERTIFICATION

This resolution was duly passed at the USET Annual Meeting, at which a quorum was present in Miami, FL, on Thursday, October 25, 2001.



Keller George, President
United South and Eastern Tribes, Inc.



Beverly M. Wright, Secretary
United South and Eastern Tribes, Inc.