

**BEFORE THE NATIONAL INDIAN GAMING COMMISSION**

\_\_\_\_\_  
IN RE:           Amendment to Metlakatla    )  
                  Indian Community's        )  
                  Gaming Ordinance            )  
\_\_\_\_\_

WITHDRAWAL OF APPEAL

On July 28, 2008, Chairman Philip Hogen filed his response (“Response”) to the appeal (“Appeal”) submitted by the Metlakatla Indian Community (“Tribe”). His Response continues to reflect fundamental misconceptions about the nature of the Class II aid feature described in the Gaming Ordinance Amendment (“Amendment”) submitted by the Tribe. As such, and acting on the advice of counsel, the Tribe has elected to withdraw its Amendment and this Appeal (see attached resolutions). Withdrawal of this Appeal does not, of course, preclude the Tribe from making future changes, as a matter of sovereign discretion, to its Gaming Ordinance. While the Tribe may be required under the Indian Gaming Regulatory Act to submit such changes to the Chairman, it remains the Tribe’s position that the Chairman lacks the legal authority to address game classification issues in the context of a tribal gaming ordinance.

Respectfully Submitted,



\_\_\_\_\_  
Joseph H. Webster  
Elliott A. Milhollin

HOBBS, STRAUS, DEAN & WALKER, LLP  
2120 L Street, N.W., Suite 700  
Washington, DC 20037  
(202) 822-8282

Dated: August 20, 2008

Attorneys for the Metlakatla Indian Community

Of Counsel:  
Geoffrey D. Strommer  
HOBBS, STRAUS, DEAN & WALKER, LLP  
806 SW Broadway, Suite 900  
Portland, OR 97205

2008 AUG 20 AM 11:02  
RECEIVED  
NATIONAL INDIAN  
GAMING COMMISSION

**RESOLUTION No. 08-37**

**By the METLAKATLA INDIAN COMMUNITY COUNCIL**

**WHEREAS**, the Metlakatla Indian Community Council is the governing body of the Metlakatla Indian Community, Annette Islands Reserve, Alaska, by the authority of the Constitution and By-laws of the Metlakatla Indian Community as approved on August 23, 1944 by the Secretary of the Interior: and

**WHEREAS**, the Metlakatla Indian Community is an Indian Tribe organized under the provisions of Section 16 of the Indian Reorganization Act, 25 U.S.C. Section 476; and

**WHEREAS**, pursuant to Article VII, Section 3 of the Constitution and By-laws of the Metlakatla Indian Community the Tribal Council has the power to undertake commercial enterprises within the Reservation; and

**WHEREAS**, the Metlakatla Indian Community allows Class II gaming operations on the Reservation subject to the Indian Gaming Regulatory Act, the Community's Gaming Ordinance and regulations promulgated by the National Indian Gaming Commission; and

**WHEREAS**, by Resolution No. 08-24, dated May 28, 2008, the Metlakatla Indian Community approved an amendment to TITLE 4 CIVIL CODE, CHAPTER 4, GAMING ORDINANCE, dated May 28, 2008, and

**WHEREAS**, Article IV, Section 1 of the Constitution and By-laws of the Metlakatla Indian Community grants the Metlakatla Indian Community Council the power to pass ordinances for the local government of the Community;

**NOW THEREFORE BE IT RESOLVED**, the Tribal Council hereby rescinds Resolution No. 08-24, dated May 28, 2008 approving the amendment to Title 4 CIVIL CODE, CHAPTER 4, GAMING ORDINANCE, dated May 28, 2008.

**DATED** this 19th day of August 2008 at Metlakatla, Alaska

**METLAKATLA INDIAN COMMUNITY**

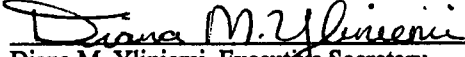
  
Sean D. Enright, Acting Mayor

**ATTEST:**

  
Diana M. Yliniemi, Executive Secretary

## CERTIFICATION

This is to certify that the foregoing resolution was adopted at a meeting of the Community Council/Executives held on the 19th day of August 2008, at which a quorum was present, by a vote of 9 for and 0 Against, the Mayor being authorized to sign the resolution.

  
\_\_\_\_\_  
Diana M. Yliniemi, Executive Secretary

RESOLUTION NO. 08-38

By the Metlakatla Indian Community Council

WHEREAS, the Metlakatla Indian Community Council is the governing body of the Metlakatla Indian Community, Annette Islands Reservation, Alaska by the authority of the Constitution and By-laws of the Metlakatla Indian Community as approved on August 23, 1944 by the Secretary of the Interior; and

WHEREAS, the Metlaktala Indian Community is an Indian Tribe organized under the provisions of Section 16 of the Indian Reorganization Act, 25 U.S.C. Section 476; and

WHEREAS, pursuant to Article VII, Section 3 of the Constitution and By-laws of the Metlakatla Indian Community the Tribal Council has the power to undertake commercial enterprises within the Reservation; and

WHEREAS, the Metlakatla Indian Community allows Class II gaming operations on the Reservation subject to the Indian Gaming Regulatory Act, the Community's Gaming Ordinance and regulations promulgated by the National Indian Gaming Commission; and

WHEREAS, by Resolution No. 08-24, dated May 28, 2008, the Metlakatla Indian Community approved an amendment to TITLE 4 CIVIL CODE, CHAPTER 4, GAMING ORDINANCE, dated May 28, 2008; and

WHEREAS, the Metlakatla Indian Community was required pursuant to 25 C.F.R. Part 522 to submit such amendment to Phil Hogen, Chairman of the National Indian Gaming Commission, and did so on May 28, 2008; and

WHEREAS, Chairman Hogen issued a letter disapproving the amendment on June 4, 2008; and

WHEREAS, the Metlakatla Indian Community filed an appeal of Chairman Hogen's disapproval to the full National Indian Gaming Commission on July 7, 2008; and

WHEREAS, Article IV, Section 1 of the Constitution and By-laws of the Metlakatla Indian Community grants the Metlakatla Indian Community Council the power to pass ordinances for the local government of the Community; and

WHEREAS, the Metlakatla Indian Community has rescinded Resolution No. 08-24 dated May 28, 2008 approving the amendment to TITLE 4 CIVIL CODE, CHAPTER 4, GAMING ORDINANCE, dated May 28, 2008;

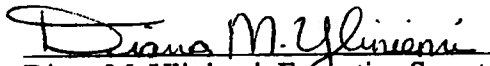
NOW THEREFORE, BE IT RESOLVED, the Tribal Council hereby formally withdraws its July 7, 2008 appeal of Chairman Hogen's disapproval to the full National Indian Gaming Commission.

DATED this 19th day of August 2008 at Metlakatla, Alaska

**METLAKATLA INDIAN COMMUNITY**

  
Sean D. Enright, Acting Mayor

**ATTEST:**

  
Diana M. Yliniemi, Executive Secretary

**CERTIFICATION**

This is to certify that the foregoing resolution was adopted at a meeting of the Community Council/Executives held on the 19th day of August 2008, at which a quorum was present, by a vote of 9 for and 0 Against, the Mayor being authorized to sign the resolution.

  
Diana M. Yliniemi, Executive Secretary