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February 27, 2008

**VIA FACSIMILE AND U.S. MAIL**

Chairman Philip N. Hogen  
National Indian Gaming Commission  
National Headquarters  
1441 L St. N.W., Suite 9100  
Washington, DC 20005

Proposed Fort Sill Apache Gaming  
Facility in Luna County, New Mexico

Dear Chairman Hogen:

As you are no doubt aware, Governor Richardson has been corresponding with the NIGC regarding the Fort Sill Apache Tribe's casino in southern New Mexico. At the NIGC's request, we presented the State's opinion regarding and opposition to the Fort Sill Apache Tribe's proposed casino on February 15, 2008. We have since discussed the issue by phone with Esther Dittler and have sent a follow up letter to the NIGC asking for action by the NIGC.

Despite the State's efforts to be responsive and to communicate information as we learn it to the NIGC, we have heard nothing back from the NIGC regarding its position or what action the NIGC plans to take. In the meantime, the Fort Sill Apache Tribe has continued construction of a casino in New Mexico, has installed gaming devices in the casino and has announced its plans to open the casino imminently.

The Tribe's intent to begin gaming on this land in New Mexico is contrary to the purpose for which this land was taken into trust. It was well after the enactment of IGRA that the Tribe acquired this land. It was not until 1998 that the Fort Sill Apache Tribal Counsel asked that the Land be taken into trust for gaming purposes. Then Governor Johnson was opposed to the land being taken into trust for gaming and made his

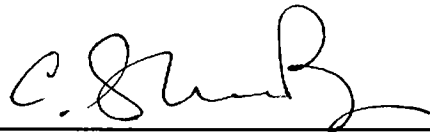
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opposition well known. Ultimately, as taking this land into trust was not acceptable to Governor Johnson or the State of New Mexico, the Tribal Counsel passes a resolution specifically stating that the Land *would not* be used for gaming. Based upon the Tribe's agreement not to use this Land for gaming, Governor Johnson and the State rescinded their objection to the fee to trust application, and the Bureau of Indian Affairs issued a letter of intent to take the land into trust.

Despite the Tribe's commitment not to use this Land for gaming, it intends to begin using the land for gaming, in contravention of IGRA, immediately. From our communications with your office it does not appear that the NIGC or the Federal government plan to take any action to stop the Tribe's conduct or to seek enforcement of IGRA. If the NIGC and the Federal government choose to abdicate their responsibility for this matter and fail to take action, the State will be forced to respond. Accordingly, the State, to preserve the integrity of its laws and the integrity of lawful gaming in New Mexico, is prepared to block access to the Fort Sill facility for non-tribal members. Obviously, as we have repeatedly, we urge the NIGC to stop the illegal opening of this casino.

Sincerely,

SUTIN, THAYER & BROWNE  
A Professional Corporation

By 

Paul Bardacke  
C. Shannon Bacon  
Albuquerque Office

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PGB/CSB/JKG

cc: The Honorable Bill Richardson, Governor  
The Honorable Gregory J. Furrat, United States Attorney  
The Honorable Jeff Houser, Tribal Chairman, Fort Sill Apache Tribe  
The Honorable Pete Domenici, United States Senator  
The Honorable Jeff Bingaman, United States Senator  
The Honorable Heather Wilson, United States Representative  
The Honorable Steve Pearce, United States Representative  
The Honorable Tom Udall, United States Representative  
The Honorable Dirk Kempthorne, Secretary of the Interior  
The Honorable Gary King, New Mexico Attorney General  
Penny J. Coleman, Acting General Counsel, NIGC  
Esther Dittler, Staff Attorney, NIGC  
James Jimenez, Chief of Staff for Governor Bill Richardson

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bcc: Justin Miller, Office of the Governor  
Frank Baca, Gaming Control Board  
Georgene Louis, Gaming Control Board  
John Monforte, Gaming Control Board  
Jorge Silva-Banuelos, Senator Bingaman's office  
David Thompson, Deputy Attorney General

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