

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CONFEDERATED SALISH AND  
KOOTENAI TRIBES  
P.O. Box 278  
Pablo, MT 59855,

SANTA ROSA RANCHERIA  
INDIAN COMMUNITY  
P.O. Box 8  
Lemoore, CA 93245

Plaintiffs,

v.

NATIONAL INDIAN GAMING COMMISSION  
1441 L Street NW  
Washington, DC 20005,

Civil Action No. 05-\_\_\_\_( )

PHILIP HOGEN, Chairman  
NELSON WESTRIN, Vice-Chairman  
CLOYCE CHONEY, Commissioner  
National Indian Gaming Commission  
1441 L Street NW  
Washington, DC 20005,

Defendants.

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**APPLICATION FOR TEMPORARY RESTRAINING ORDER**

Plaintiffs, Confederated Salish and Kootenai Tribes and Santa Rosa Rancheria Indian Community, by counsel, pursuant to Fed.R.Civ.P. 65 and LCvR 65.1, hereby apply for issuance of an order temporarily enjoining and restraining Defendants, National Indian Gaming Commission, Philip Hogen, Nelson Westrin and Cloyce Choney, and any

agent, employee, or representative of them, or any other person or entity acting on behalf of or in concert with any of them, from: (a) holding meetings, promulgating or revising draft regulations or otherwise conducting any business of the Tribal Advisory Committee assembled by Defendants on March 4, 2004; or (b) using any draft regulations or other work product created by or through said Tribal Advisory Committee in any future notice and comment rulemaking until such time as a new Advisory Committee has been created and has issued final recommendations to the NIGC, or until further Order of this Court. In support of this Application, Plaintiffs respectfully state as follows:

1. Plaintiffs will likely prevail on the merits of their claims when this action is fully litigated.

2. If the relief presently sought is not granted, and if Defendants are permitted to continue their course of conduct whereby they disregard and violate the requirements in the Federal Advisory Committee Act, 5 U.S.C. App. 2 (“FACA”), Plaintiffs will continue to suffer immediate and irreparable harm for which they will not have an adequate remedy at law.

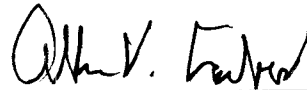
3. Plaintiffs will suffer substantially more harm if a temporary restraining order is not issued than Defendants will suffer if such an order is issued. Defendants will not suffer any harm if the requested temporary restraining order is issued in that it will only prohibit them from continuing to violate Plaintiffs’ rights under the FACA.

4. The public interest will be served by issuance of a temporary restraining order.

5. In further support of this Application, Plaintiffs respectfully invite the Court's attention to the Plaintiffs' Verified Complaint for Declaratory and Injunctive Relief and to the supporting Memorandum submitted herewith.

WHEREFORE, Plaintiffs, Confederated Salish and Kootenai Tribes and Santa Rosa Rancheria Indian Community respectfully request that this Court grant their Application and enter a temporary restraining order as set forth in the proposed Order submitted herewith and that the Court award Plaintiffs such other and further relief as it deems to be just and proper.

RESPECTFULLY SUBMITTED



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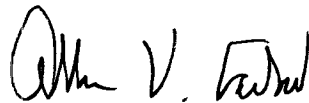
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COUNSEL FOR PLAINTIFFS

**LCvR 65.1 CERTIFICATION**

Pursuant to LCvR 65.1(a), I hereby certify that for each Defendant, true and correct copies of Plaintiffs' Verified Complaint, Application for Temporary Restraining Order, Memorandum in Support of Application for Temporary Restraining Order, proposed Order and other papers filed herewith were hand delivered on March 10, 2005, to the offices of the National Indian Gaming Commission, 1441 L Street NW, Washington, D.C. True and correct copies of the foregoing were also hand delivered on March 10, 2005, to said address for Penny Coleman, Esq., Acting General Counsel of Defendant National Indian Gaming Commission. Plaintiffs, by counsel, has provided notice, by telephone, to William Grant, Senior Attorney at the National Indian Gaming Commission, of the filing of the foregoing papers and that Plaintiffs were requesting a hearing, at the Court's earliest convenience, on this Application for a Temporary Restraining Order.

Dated: March 9, 2005



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