February 27, 2008

Jeff Houser, Chairman
Ft. Sill Apache Tribe
Route 2, Box 121
Apache, Oklahoma 73006
Fax No. 580-588-3133

Phillip Thompson
601 Pennsylvania Ave.
Suite 9100
Washington, D.C. 20005
Fax No. 202-905-0057

## WARNING NOTICE

Dear Chairman Houser and Mr. Thompson:

I am truly sorry to report to you that it is my preliminary view that the Luna County lands on which you are constructing a gaming casino do not constitute Indian lands on which the Ft. Sill Apache Tribe may conduct gaming. While I have not finished my review, I believed it necessary to advise you of my initial views so that the Tribe can consider whether it wishes to risk enforcement action by the Chairman of the National Indian Gaming Commission. Consequently, I am warning you that the Tribe may violate the Indian Gaming Regulatory Act (IGRA) if it opens a gaming operation on the Luna County lands.
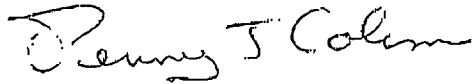
The IGRA contains a general prohibition against gaming on lands acquired into trust after October 17, 1988. You argue that the operation site meets two exceptions set out in 25 U.S.C. 2719 for lands that are part of the Tribe's last recognized reservation and for the restoration of lands for an Indian tribe that is restored to Federal recognition. While my office has not finished its analysis on your new gaming site, we have discussed the matter internally and preliminarily concluded that the lands do not fall within these exceptions. Consequently, the Tribe could not conduct gaming on these lands.

We expect to finish our analysis in the near future. At that time, it is very likely that the Chairman will take action to close the operation if you proceed to open it. Furthermore, the Tribe risks enforcement action even if it only opens for a matter of hours.

We strongly encourage the Tribe not to open and to seek a Secretarial two-part determination under 25 U.S.C. 2719(b)(1)(a).

Please contact me or Esther Dittler, who is assigned to this matter, at (202) 632-7003 if you have any questions.

Sincerely,

Penny J. Coleman
Acting General Counsel