

1 Little Fawn Boland (CA No. 240181)
2 Ceiba Legal, LLP
3 35 Madrone Park Circle
4 Mill Valley, CA 94941
5 Phone: (415) 684-7670 ext. 101
6 Fax: (415) 684-7273
7 littlefawn@ceibalegal.com

8 In Association With
9 *Pro Hac Vice* Application to be Filed
10 Kevin C. Quigley (MN No. 0182771)
11 Hamilton Quigley & Twait, PLC
12 W1450 First National Bank Building
13 332 Minnesota Street
14 St. Paul, MN 55101
15 Phone: (651) 602-6262
16 Fax: (651) 602-9976
17 kevinquigley@pacemn.com

18 Attorneys for Defendants

19 **UNITED STATES DISTRICT COURT**
20 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

21 State of California,

Plaintiff,

vs.

Iipay Nation of Santa Ysabel, et. al.

Defendants.

CIVIL FILE NO. 3:14-CV-02724-
AJB/NLS

**DECLARATION OF DAVID
CHELETTE IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
STATE OF CALIFORNIA'S
APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER**

Complaint Filed: November 18, 2014
Hearing Date: December 4, 2014
Time: 2:00 pm
Courtroom: 3B
Judge: Hon. Anthony J. Battaglia

1 I, David Chelette, declare as follows:

2 1. I am the Chairman of the Santa Ysabel Interactive, Inc. (“SYI”), having
3 served in this capacity since July 2013. If called and sworn, I would testify competently
4 to the following from my personal knowledge.

5 2. SYI is a tribal corporation established under the laws of the Iipay Nation of
6 Santa Ysabel, a federally recognized Indian tribe (“Tribe”), and is a wholly-owned
7 subsidiary of Santa Ysabel Tribal Development Corporation (“SYDC”), which is wholly-
8 owned by the Tribe. The tribal charter of incorporation of both SYDC and SYI expressly
9 state that the Tribe’s sovereign immunity from suit has been extended to both SYDC and
10 SYI. SYI serves as one of the Tribe’s economic development companies, with its primary
11 mission being to engage in business ventures that provide economic development and
12 employment opportunities for the Tribe and its members. The Tribe has approximately
13 900 members, including children.

14 3. In order to fulfill its mission, SYI decided in early October 2014 to offer
15 “VPN Aided Class II Gaming,” which is server-based bingo games played on the Tribe’s
16 sovereign Indian lands using a Class II gaming system known as the “Virtual Private
17 Network Assisted Play System” (“VPNAPS”). In early November 2014, SYI began to
18 offer its VPN Aided Class II Gaming for real money play, but limited play only to adult
19 residents of the State of California while they are located within the State.

1 4. SYI's VPN Aided Class II Gaming is a new business of the Tribe separate
2 and distinct from the poker platform venture SYI announced an intent to offer last
3 summer (i.e. privatetable.com) and which was the subject of a July 14, 2014 State of
4 California ("State") "Meet and Confer" letter. True and correct copies of that letter and
5 the Tribe's response letters are attached hereto as **Exhibit No 1**. In contrast, the Tribe
6 never received a "Meet and Confer" letter from the State concerning the Class II bingo
7 games offered by SYI via its VPN Aided Class II Gaming, nor, until it was served with
8 the State Complaint in this litigation on November 19, 2014, has the Tribe received any
9 written notice from the State that it deemed the VPN Aided Class II Gaming to
10 "constitute a material breach of the Compact."

11 5. VPN Aided Class II Gaming and its use of the VPNAPS as a technological
12 aid to the play of Class II server-based bingo games is described in a document entitled
13 "Description of Proposed VPN Aided Class II Gaming Using 25 CFR Part 547 Class II
14 Gaming System" dated June 24, 2014, a true and correct copy is attached hereto as
15 **Exhibit No. 2**.

16 6. A description of bingo games to be conducted by SYI using the VPNAPS is
17 contained in a document entitled "Description of Bingo Games to be Conducted by Santa
18 Ysabel Interactive Using Virtual Private Network Assisted Play System ("VPNAPS"),
19 dated June 24, 2014, a true and correct copy is attached hereto as **Exhibit No. 3**.

1 7. The primary collection of components which serve as “technological aids”
2 as part of the play of Class II bingo games using the VPNAPS consist of the following:

3 (a) The electronic hardware and software components used to make a
4 “video” or “digital” representation of the Class II game on the Class II
5 gaming system.

6 (b) The hardware and software components used to make the VPN
7 communication link between the tribal gaming enterprise’s servers
8 located on the Tribe’s Indian lands and an Account Holder’s web-
9 browser enabled device.

10 (c) The hardware and software components for the “proxy function”
11 elements of the VPNAPS to allow proxy play of the bingo game by
12 the Account Holder’s legally designated agent on behalf of the
13 Account Holder.

14 8. This collection of “technological aids” allows the VPNAPS to function as
15 follows: (a) the electronic hardware and software components permits a video or digital
16 representation of the Class II game play and results to be displayed in real time to proxy
17 participants, as if the proxy participants are playing an “electronic” Class II gaming
18 device at the tribal gaming facility; (b) the VPN hardware and software components
19 permit a remote communications channel between each Account Holder and their legally
20 designated proxy located on Indian lands, who will receive instructions from the Account
21 Holder regarding the play of bingo games on the VPNAPS; and (c) the “proxy function”

1 element of the VPNAPS, monitored by the tribal gaming employee designated for the
2 Account Holder, allows the Account Holder's proxy to play the bingo game in real time
3 on behalf of the Account Holder and reveal and report on a time delayed basis to the
4 Account Holder the results of the games previously played on their behalf.

5 9. In sum, SYI offers its VPN Aided Class II gaming using a Class II gaming
6 system that, through high-tech advancements and innovations, is designed and built to be
7 the first **IGRA compliant** *virtual* Class II bingo gaming system for use with web-
8 browser enabled devices. This one-of-a-kind digital-based bingo gaming system is part of
9 the natural progression of the continuing technological evolution of Class II gaming, as
10 Congress has always intended for the Indian gaming industry.

11 10. The VPNAPS's patron registration site prominently displays at all times to
12 Account Holders (and to the general public), among other things, the house rules for
13 game play and terms of service for the VPN Aided Class II Gaming, and the applicable
14 privacy policy of the Tribe. Each of these clearly informs the Account Holder that "[a]ll
15 activities of SYI DRB take place on Indian Land and are subject to the jurisdiction, laws,
16 policies, rules and regulations of the Tribe." In addition, before one can access the VPN
17 Aided Class II Gaming, the potential patron is informed in writing that "Desert Rose
18 Bingo is owned and operated by the federally recognized Iipay Nation of Santa Ysabel
19 and conducts Class II gaming on its Indian lands in Santa Ysabel, California. Desert Rose
20 Bingo is licensed and regulated by the Iipay Nation of Santa Ysabel Gaming
21 Commission."

1 11. If the court issues the quick injunctive relief requested by the State, SYI will
2 be forced to immediately terminate, eliminate, and/or jeopardize the continued
3 employment of its members, and other nonmembers, whose jobs support the operation of
4 SYI's VPN Aided Class II Gaming. The tribal members suffer high levels of
5 unemployment. The unemployment rate on the reservation is well above the average for
6 San Diego County. The loss of employment will only add to the Tribe's plight. The
7 Tribe, one of the most impoverished in California, with little alternative means of
8 economic development, will immediately lose gaming revenues – which it will never get
9 back. The Tribe is counting on the funds from SYI's VPN Aided Class II Gaming to fund
10 vital Tribal programs, including job training, housing assistance, health care, elder care,
11 senior programs, to improve access to water resources, and to make significant repairs to
12 the Tribe's auditorium and to improve necessary infrastructure. In the first six months
13 alone it is estimated that lost revenues could be in excess of \$25,000,000 according to
14 industry projections and forecasts of demand. During the time that the Tribe is prohibited
15 from conducting its IGRA gaming it will lose customers it may never get back even if it
16 resumes operation of its VPN Aided Class II Gaming later when the State's claims prove
17 meritless.

18 Continued on next page.

1 I declare under penalty of perjury that the foregoing is true and correct. This
2 declaration is executed on November 25, 2014.

3
4 

5 David Chelette

6 Date: 11-25-14

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

EXHIBITS TO DECLARATION OF DAVID CHELETTE
TABLE OF CONTENTS

1. Letters – State of California.....	E1-E5
2. Description of Proposed VPN Aided Class II Gaming Using 25 CFR 547 Class II Gaming System.....	E6-E43
3. Description of Bingo Games to be Conducted by Santa Ysabel Interactive Using Virtual Private Network Assisted Play System	E44-E54



OFFICE OF THE GOVERNOR

July 14, 2014

Chairman Virgil Perez
Santa Ysabel Band of Diegueno Mission Indians
Of the Santa Ysabel Reservation
School House Canyon Road
P.O. Box 130
Santa Ysabel, CA 82070

Re: Request to Meet and Confer Under Compact Section 9.1

Dear Chairman Perez:

This letter is addressed to you in accordance with section 13.0 of the Tribal-State Compact Between the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation and the State of California (Compact).

A recent article in US Poker (<http://www.uspoker.com/blog/santa-ysabel-launching-real-money-online-poker-california-players/8509/>), as well as other articles, announced that the Santa Ysabel Tribe intends to launch real money online poker in California. The article describes a plan where players apparently will not physically be on the Santa Ysabel Tribe's Indian lands. The State is not aware of any legal authority that could justify the Santa Ysabel Tribe's plan to offer off-reservation gaming within the State of California. Therefore, the State is left to conclude that the Santa Ysabel Tribe's planned Internet poker will constitute a material breach of the Compact and will violate the Indian Gaming Regulatory Act, the gambling laws of California, and the federal Unlawful Internet Gambling Enforcement Act.

For these reasons, the State hereby requests, pursuant to Compact section 9.1, subdivisions (a) and (b), that within ten (10) days following receipt of this letter, the Santa Ysabel Tribe meet and confer with the State regarding the Santa Ysabel Tribe's plan to offer Internet bingo. As further provided in section 9.1, the meet and confer is without prejudice to the State's right to seek injunctive relief against the Santa Ysabel Tribe when circumstances are deemed to require immediate relief.

Chairman Virgil Perez
July 14, 2014
Page 2

In accordance with Compact section 9.1, subdivision (a), the State hereby gives notice that the issue to be resolved in the meet and confer process is whether the Santa Ysabel Tribe intends to offer Internet poker in breach of the Compact and in violation of the Indian Gaming Regulatory Act, the gambling laws of California, and the federal Unlawful Internet Gambling Enforcement Act.

Representatives of the State will be available to meet in Sacramento on July 18, 2014, at 10:00 a.m. Please have a tribal representative or your legal counsel contact this office as soon as possible to confirm your availability.

Thank you for your prompt attention to this matter.

Sincerely,



Joginder S. Dhillon
Senior Advisor for Tribal Negotiations

July 15, 2014

Mr. Joginder S. Dhillon
Senior Advisor for Tribal Negotiations
Office of the Governor
State Capitol, Suite 1173
Sacramento, CA 95814

Dear Mr. Dhillon:

I am in receipt of your letter dated July 14, 2014, requesting to meet and confer pursuant to Tribal-State Gaming Compact Section 9.1 to discuss Santa Ysabel's business enterprise, Santa Ysabel Interactive. Unfortunately, you provide insufficient information regarding the purpose and substance of the proposed meeting upon which we might gather the necessary information to address potential concerns the state might have with our business enterprise.

The Iipay Nation of Santa Ysabel and the State of California negotiated a Tribal-State Gaming Compact in 2003, which was ratified by the State Legislature, providing the State with negotiated authority with regard to the regulation of Class III gaming offered by the Tribe on our tribal lands. While Santa Ysabel maintains its gaming compact with the State in good standing, the Tribe does not currently offer Class III gaming and has no plans to do so in the near future.

Santa Ysabel Interactive, as the press reports you highlight in your letter emphasize, and as the Santa Ysabel Tribal Gaming Commission states on its website, sycommission.net, offers online poker only, a Class II game. In fact, the Gaming Commission further states that the Tribe has no intention to offer any Class III games, including slots and house-banked games, through its interactive gaming website. That being said, we are at a quandary in understanding the relevance of Santa Ysabel Interactive's tribal-regulated Class II gaming, conducted from servers located on tribal lands, and our gaming compact with the State exclusively dealing with Class III gaming. I would request that you outline specific sections of the compact which the State believes apply to our Class II gaming enterprise. As a point of clarification, in paragraph three of the first page of your letter of July 14th, you make reference to "...the Santa Ysabel Tribe's plan to offer Internet Bingo." While bingo is also defined as a Class II gaming activity on tribal lands, Santa Ysabel does not offer bingo through Santa Ysabel Interactive, or have any plans to do so in the near future. Again, if Santa Ysabel did contemplate offering bingo in an interactive environment, because of the activity's classification as Class II gaming, we do not feel that the activity would in any way be covered by or have any relevance to our Tribal-State Gaming Compact.

We have no intention of discussing any federal statutes, including the Indian Gaming Regulatory Act or the Unlawful Internet Gaming Enforcement Act with any State of California government officials. We feel that you are exceeding your scope and authority by requesting a discussion with us concerning the application and relevance of federal law as it pertains to business activity sanctioned by our Tribe, a sovereign nation, conducted on tribal lands.

You mention in your letter possible violation of California gambling laws as it relates to the Tribe's Class II online poker activity conducted from servers located on tribal lands. We request that you cite specific statutes of California law which the State believes may be violated by this activity. Without specific information in this regard, we would be unable to provide the State with meaningful dialogue with which to resolve potential issues.

As we are aware that the State is currently considering at least two legislative proposals for state-licensed interactive gaming, we would be more than happy to meet with state elected officials and share our experience with building our interactive gaming enterprise to improve the pending legislation, enhance the legislation's fairness for all relevant stakeholders, and ensure the integrity of state-licensed gaming activity. Likewise, we would be pleased to meet with state gaming regulators who may be tasked with crafting the regulatory structure or enacted state-licensed online gaming, to share our regulatory framework. We have as our common goal ensuring the integrity of gaming and protection of the gaming public.

Related to the last topic mentioned above, we are surprised at the rapidity with which the State took notice of our legal, tribal-regulated interactive Class II gaming enterprise. We received your letter on the first day of the launch of our website. Contrast this with the State's lack of action for over five years as it pertains to so-called Internet Cafes, which offer unregulated Internet-based slot games, in clear violation of both state law and tribal exclusivity with regard to these Class III games. The public safety and crime issues attracted to the communities where these unlawful gaming operations are allowed to operate is well-documented, yet these operations continue to proliferate throughout the State. We would also inquire as to the State's apparent inaction in regards to the numerous unlicensed card rooms operating in commercial buildings and out of private residences across the State. These illegal, unlicensed, unregulated commercial operations similarly attract crime in the form of prostitution, illegal sales of alcohol, and the risk of home invasion robberies, yet the State fails to adequately address these actual crimes.

I would be happy to meet with you and your staff, informally and not within the provisions of the Tribe's Gaming Compact with the State, after being provided with the information outlined above and respecting the conditions outlined in this response. I would further invite you and your staff to hold such a meeting on the tribal lands of the Iipay Nation of Santa Ysabel.

I await your timely response to this letter.

Sincerely,

Virgil Perez, Tribal Chairman
Iipay Nation of Santa Ysabel

August 4, 2014

Mr. Joginder S. Dhillon
Senior Advisor for Tribal Negotiations
Office of the Governor
State Capitol, Suite 1173
Sacramento, CA 95814

Dear Mr. Dhillon:

In the interest of fostering positive government-to-government relations, I would like to inform you of developments related to Santa Ysabel's interactive gambling website, privatetable.com. The Santa Ysabel Gaming Commission has entered into a partnership with the California Council on Problem Gambling to work together to incorporate best practices and strategies concerning responsible gambling into the Tribe's online gambling website.

Santa Ysabel Interactive has received recommendations from the Council to improve the effectiveness and accessibility to the website's responsible gambling program. Several of the Council's recommendations have been incorporated in the website. It is our desire to construct a robust, state-of-the-art responsible gambling program within our online gambling enterprise which may be relied upon by the State or any other Tribe as a model program in problem gambling prevention and intervention. We look forward to a long and productive partnership with the California Council on Problem Gambling, and at some time in the not too distant future, we look forward to supporting the Council's outstanding work through a financial contribution.

I would also like to renew my previous invitation to you and other members of the Governor's staff to visit the Iipay Nation of Santa Ysabel reservation in the near future.

Sincerely,

Virgil Perez, Tribal Chairman
Iipay Nation of Santa Ysabel

cc: Douglas Hatfield, NIGC Director of Compliance

Description of Proposed VPN Aided Class II Gaming Using 25 CFR Part 547 Class II Gaming System

Introduction

Pursuant to its inherent sovereign authority and applicable federal law, specifically, the Indian Gaming Regulatory Act (“IGRA”), P.L. 100-497, 25 U.S.C. §§ 2701, *et seq.*, the Iipay Nation of Santa Ysabel (“Tribe”), a federally-recognized Indian tribe, intends to offer server-based bingo games to be played on the Tribe’s sovereign Indian lands using a Class II gaming system known as the “Virtual Private Network Assisted Play System” (“VPNAPS”). The VPNAPS contains several proprietary technologic aids, including a component that facilitates access to the Tribe’s gaming facility through a secure virtual private network connection between individuals who are properly registered account holders with the tribal gaming enterprise and their proxy agent located on the Indian lands, which assists proxy play of bingo games on behalf of the account holders (referred to herein as “VPN Aided Class II Gaming”). In sum, the VPNAPS allows the Tribe to offer Class II electronic linked bingo gaming conducted on Indian lands using a proxy system. The nature of the games to be played using the linked bingo system will be Class II server-based games requiring peer-to-peer competition in a single game of bingo with a common ball draw.

How VPN Aided Class II Gaming will be Conducted

VPN Aided Class II Gaming will offer only Class II server-based (electronic) bingo games using a game server located within a tribally licensed Indian gaming facility on the Tribe’s Indian lands. The bingo games will be classified as “Class II” games under IGRA by the tribal gaming regulatory agency before being offered for play using the VPNAPS. See Appendix A, Class II Gaming Classification Under IGRA. Moreover, the VPNAPS itself will be verified and certified under the Tribe’s gaming regulations and the technical standards of 25 CFR Parts 543 and 547 by a qualified, independent compliance lab.

The tribal gaming enterprise will conduct its VPN Aided Class II Gaming using the VPNAPS, a licensed, proprietary technology platform – comprised of multiple software processes and hardware components that work together to offer access to Class II server-based bingo games via a secure and restricted access virtual private network (“VPN”) connection through any web browser enabled device – that is designed and engineered to maintain legal compliance with all applicable laws and regulations. The collection of “technologic aids” contained within the VPNAPS will allow the gaming system to function as a series of linked “electronic” Class II gaming devices at the tribal gaming facility located on the Tribe’s Indian lands without changing the essential game characteristics or statutory criteria required under IGRA for the play of a Class II bingo game.

The games to be conducted using the VPNAPS will use the traditional bingo game format. Game play, however, is achieved via “proxy play” – thus ensuring that all actual game play is taking place within the sovereign Indian lands of the Tribe. In this respect, real time live bingo game action is played only by the “proxy” that represents an individual who has used a web-browser enabled device to access the Tribe’s gaming facility and its servers (each located on the Tribe’s Indian lands) via the VPNAPS; no live bingo game action is ever performed by the user of the web-browser enabled device. Once an individual is approved as an “Account Holder” (i.e. an individual at least twenty-one (21) years of age who has used the VPNAPS virtual “registration booth” to receive consent to (1) enter the Tribe’s Indian lands and (2) establish an account with the tribal gaming enterprise), system components of the VPNAPS allow the Account Holder to access a “VPN gateway” connecting them to a virtual “proxy engagement station” – to hire a proxy to conduct the bingo game play on their behalf. The Account Holder engages their proxy via a request form that is the legal contract through which the proxy relationship is established.

A tribal gaming employee (or their designee) monitoring the proxy functions of the VPNAPS acts as the legally designated agent of the Account Holder, and, assisted by the technologic aid of proxy software elements in the VPNAPS (including an auto-daub feature), conducts proxy play of the bingo games on the Account Holder’s behalf. An Account Holder’s proxy commences play of the game on the VPNAPS by requesting from the game action server component of the VPNAPS the purchase of one or more digital bingo cards in a common game of bingo with a set denomination (i.e. penny, \$.05, \$.10, \$.25, \$.50 or \$1.00 game). At all times the games played using the VPNAPS require peer-to-peer competition between at least five (5) proxy participants in the game of bingo which is accomplished through a linked network contained within the VPNAPS. There is a common bingo ball draw for all proxy participants included in each bingo game. Components of the VPNAPS assist the Account Holder’s proxy in playing the game of bingo by providing a visual representation of the digital bingo card, displaying the balls drawn, daubing or covering the corresponding numbers on the digital bingo card when matched with ball numbers as they are drawn, and presenting any prizes won through the play of the bingo game for later display to the Account Holder. Game play results are revealed on a time-delayed basis to the Account Holder, and an Account Holder can select the theme for watching the replay display of the game played by their proxy on their behalf.

See **Attachment No. 1** for diagram overview of the timeline of VPN Aided Class II Gaming via the VPNAPS.

The VPN gateway link used by Account Holders to establish their accounts with the tribal gaming enterprise and to connect with their proxy agents regarding their proxy service relationship will be assigned a “special use” Internet protocol address by the Internet Assigned Numbers Authority and uses a form of communication that utilizes secured and restricted access connections (i.e. via software and a server that authenticates users, encrypts data, and manages sessions with users) over connectivity infrastructure to create point-to-point connections segregated and isolated from the publicly accessible Internet network (also known as the World Wide Web), such as to constitute a closed, proprietary communication network. This level of isolation is accomplished by using various technologies that not only establish the “tunnel” for the information passed between the Account Holders and their proxy agents and the tribal gaming enterprise, but also how the information is transported. These include: Firewall(s),

Internet Protocol Security, Password Authentication, and Advanced Encryption. See Appendix B, Features of Closed Proprietary Communication Network.

The secure VPN used with the VPNAPS meets the level of isolation necessary to be deemed a “closed, proprietary communication network,” as demonstrated by (1) its use of an encrypted HTTPS secure connection to the tribal gaming operation using a proprietary communications protocol, and (2) the fact that no component of the VPNAPS used in connection with the VPN Aided Class II Gaming will function without a physical and logical connection to the network.

See Attachment No. 2 for the security features of the VPNAPS to be used with the VPN Aided Class II Gaming.

Other than the VPN communication link between the Account Holders and their proxy agents and the tribal gaming enterprise, all other components of the VPNAPS are physically located on the Tribe’s Indian lands, including the computer hardware and software associated with the operation of the VPN Aided Class II Gaming, the accounts of the Account Holders, the administrative personnel and records, and the servers and other technological components that assist the proxy participants to play the bingo games on behalf of the Account Holders.

The initial registration process for accessing the tribal gaming enterprise and its VPN Aided Class II Gaming gathers basic identification information. As the individual is allowed entry into the secure VPN network connection of the VPNAPS, additional information will be required for consumer protection: (1) further identification information; (2) age (21–years or older) and location verifications; (3) affirmations of privacy policy and other legal and regulatory requirements, along with other disclosures and affirmations; (4) payment and settlement information and authorizations; and (5) engagement of their proxy, the legally designated agent of an Account Holder, to take specific actions on their behalf.

In order to hire a proxy to participate in bingo games on their behalf, an individual must first become a registered account holder and fund an account with the tribal gaming enterprise. An Account Holder can fund their account by several different means, including direct cash deposits, mailed checks or money orders, wire transfers, ACH transfers, or debits from Visa or MasterCard debits or credit cards made using features of the VPNAPS. Once their account is established, Account Holders can then submit a request form to instruct their proxy to purchase (in U.S. currency) bingo cards to be played on their behalf in order to be eligible to win several different forms of cash prizes. If, and only if, the request form is accepted by the tribal gaming enterprise, a proxy participant will be allowed to proceed to purchase bingo cards on the Account Holder’s behalf. Bingo cards for bingo games will be sold in denominations of Penny, \$0.05, \$0.10, \$0.25; \$0.50; and \$1.00. There will be no limit to the number of cards available for purchase for each bingo game.

The VPNAPS will comply with the Part 547 technical standards for the use of “technologic aids” in the play of Class II games. The primary collection of components which serve as “technological aids” as part of the play of Class II games using the VPNAPS consist of the following:

1. The electronic hardware and software components used to make a “video” or “digital” representation of the Class II game on the Class II gaming system.
2. The hardware and software components used to make the VPN communication link between the tribal gaming enterprise’s servers located on the Tribe’s Indian lands and an Account Holder’s web-browser enabled device.
3. The hardware and software components for the “proxy function” elements of the VPNAPS to allow proxy play of the bingo game by the Account Holder’s legally designated agent on behalf of the Account Holder.

See **Attachment No. 3** for a diagram overview of VPNAPS components and Appendix C, Class II Gaming Using Technologic Aids.

In summary, this collection of “technological aids” will allow the VPNAPS to function as follows: (1) the electronic hardware and software components will permit a video or digital representation of the Class II game play and results to be displayed in real time to proxy participants, as if the proxy participants are playing an “electronic” Class II gaming device at the tribal gaming facility; (2) the VPN hardware & software components will permit a remote communications channel between each Account Holder and their legally designated proxy located on Indian lands, who will receive instructions from the Account Holder regarding play of bingo games on the VPNAPS; and (3) the “proxy function” element of the VPNAPS, monitored by the tribal gaming employee designated for the Account Holder, will allow the Account Holder’s proxy to play the bingo game in real time on behalf of the Account Holder and reveal and report on a time delayed basis to the Account Holder the results of the games previously played on their behalf.

As mentioned above, the Tribe will exercise its primary regulatory authority over Class II gaming conducted on Indian lands by having its tribal gaming regulatory agency make a written determination, before any VPN Aided Class II Gaming using the VPNAPS will be offered for real money play, that (1) the bingo games played using the VPNAPS are to be classified as “Class II” games under IGRA, and (2) the VPNAPS is a Class II gaming system that meets the standards and requirements of the Tribe’s gaming regulations and the technical standards of 25 CFR Parts 543 and 547.

Overview of VPNAPS Functionality

See **Attachment No. 4** for description and illustration of the functionality of the VPNAPS.

Summary

The Tribe intends to use a Class II gaming system that, through high-tech advancements and innovations, is designed and built to be the first **IGRA compliant** *virtual* Class II bingo gaming system for use with web-browser enabled devices. This one-of-kind digital-based bingo gaming system is part of the natural progression of the continuing technological evolution of Class II gaming, as Congress has always intended for the Indian gaming industry.

Just as the first generation of Class II electronic bingo machines represented the “electrification” of bingo by making the technological leap in putting the classic paper & dauber bingo game into a wholly *electronic* format, the VPNAPS takes the next technological leap, deploying new software and hardware enhancements that work in concert to create a Class II gaming environment, and represents the “digitalization” of bingo by transforming the client-server architecture of e-bingo gaming systems and putting it in a wholly *digital* format; all while retaining the essential characteristics/fundamental aspects of Class II bingo games.

System components include:

- a virtual “registration booth” – to receive consent to enter the Tribe’s Indian lands and
- to allow access to a “VPN gateway”
- connecting to a virtual “proxy engagement station” – to hire a proxy to conduct the bingo game play

Real time live bingo game action is played by the proxy of the web-browser enabled device user who has accessed the Tribe’s virtual Class II bingo gaming system from anywhere; no live bingo game action, however, is ever performed by the user. And no live bingo game action is ever commenced until two virtual private tribal doorways have been successfully entered by the user, and at least five device user proxies are participating in a common bingo game. The gaming system is equipped with an auto-daub feature to assist the user proxies in their play of the bingo games.

Appendix A

CLASS II GAMING CLASSIFICATION UNDER IGRA

Class II Gaming Classification

IGRA Definition

IGRA governs gaming on Indian lands. IGRA defines “Class II Gaming” in relevant part to include:

1. The game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith) –
 - a. which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - b. in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - c. in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and . . .

See 25 U.S.C. §2703(7) (A). Games that are not within the definition of Class I or Class II games are Class III games, see 25 U.S.C. §2703(8), including:

1. any banking card games, including baccarat, chemin de fer, or blackjack (21), or
2. electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

NIGC Definition

The NIGC’s current regulations define Class II gaming very similar to the statutory definition under IGRA:

1. Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:
 - a. Play for prizes with cards bearing numbers or other designations;
 - b. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - c. Win the game by being the first person to cover a designated pattern on such cards.
2. If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;
3. Nonbanking card games that:

- a. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
- b. Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;

See 25 C.F.R. §502.3.

The NIGC regulations also define “other games similar to bingo” for purposes of Class II gaming.

25 C.F.R. §502.9 Other games similar to bingo.

Other games similar to bingo means any game played in the same location as bingo (as defined in 25 USC 2703(7)(A)(i)) constituting a variant on the game of bingo, provided that such game is not house banked and permits players to compete against each other for a common prize or prizes.

APPENDIX B

Features of a Closed Proprietary Communications Network

The VPNAPS utilizes a secure VPN for the communications link between Account Holders their proxy agents located on the Tribe's Indian lands and the tribe's gaming enterprise. The secure VPN used by the VPNAPS is in essence a "closed, proprietary communication network". A closed proprietary network, more commonly known as a "private network", is separate and distinct from the publically accessible "Internet" network (also known as the World Wide Web) through its use of VPNs. Communications that travel over a virtual private network are isolated from, and not accessible to the general publicly using the Internet generally, and vice versa. This is true even though a virtual private network shares some connectivity infrastructure with the Internet.

The VPN to be used as part of the VPNAPS is designed to only allow access to the Tribe's gaming enterprise and its VPN Aided Class II Gaming via direct communication between the Account Holders their proxy agents and the tribal gaming enterprise. This point-to-point communication, segregated and isolated from the Internet, is accomplished by using various technologies that not only establish the "tunnel" for the information passed between the Account Holders, their proxies and the tribal gaming enterprise, but also how the information is transported. These include:

1. Firewall(s): A security system consisting of a combination of hardware and software that limits the exposure of a computer or computer network to attack from hackers; commonly used on local area networks that are connected to the Internet.
2. IPSec: Internet Protocol Security provides interoperable, high quality and cryptographically based security services for traffic at the IP layer, such as authenticity, integrity, confidentiality and access control to each IP packet.
3. Password Authentication: end user security measure that ensures user login and identification: are based on a unique login name and password combination. Further authentication techniques may be utilized in the future to further enhance security through use of physical characteristics such as fingerprint identification, iris/retinal scanning, facial scanning & recognition, voice recognition, etc.

Advanced Encryption: A cryptographic algorithm that can be used to protect electronic data. The AES algorithm can be used to encrypt (encipher) and decrypt (decipher) information. Encryption converts data to an unintelligible form called ciphertext; decrypting the ciphertext converts the data back into its original form, called plain text.

APPENDIX C

CLASS II GAMING USING TECHNOLOGIC AIDS

Class II Gaming Using a Technologic Aid

NIGC Definition

Class II games that may utilize “electronic, computer or other technologic aids” as part of players’ participation in the game are distinguished under the NIGC regulations as follows:

25 C.F.R. §502.7 Electronic, computer or other technologic aid.

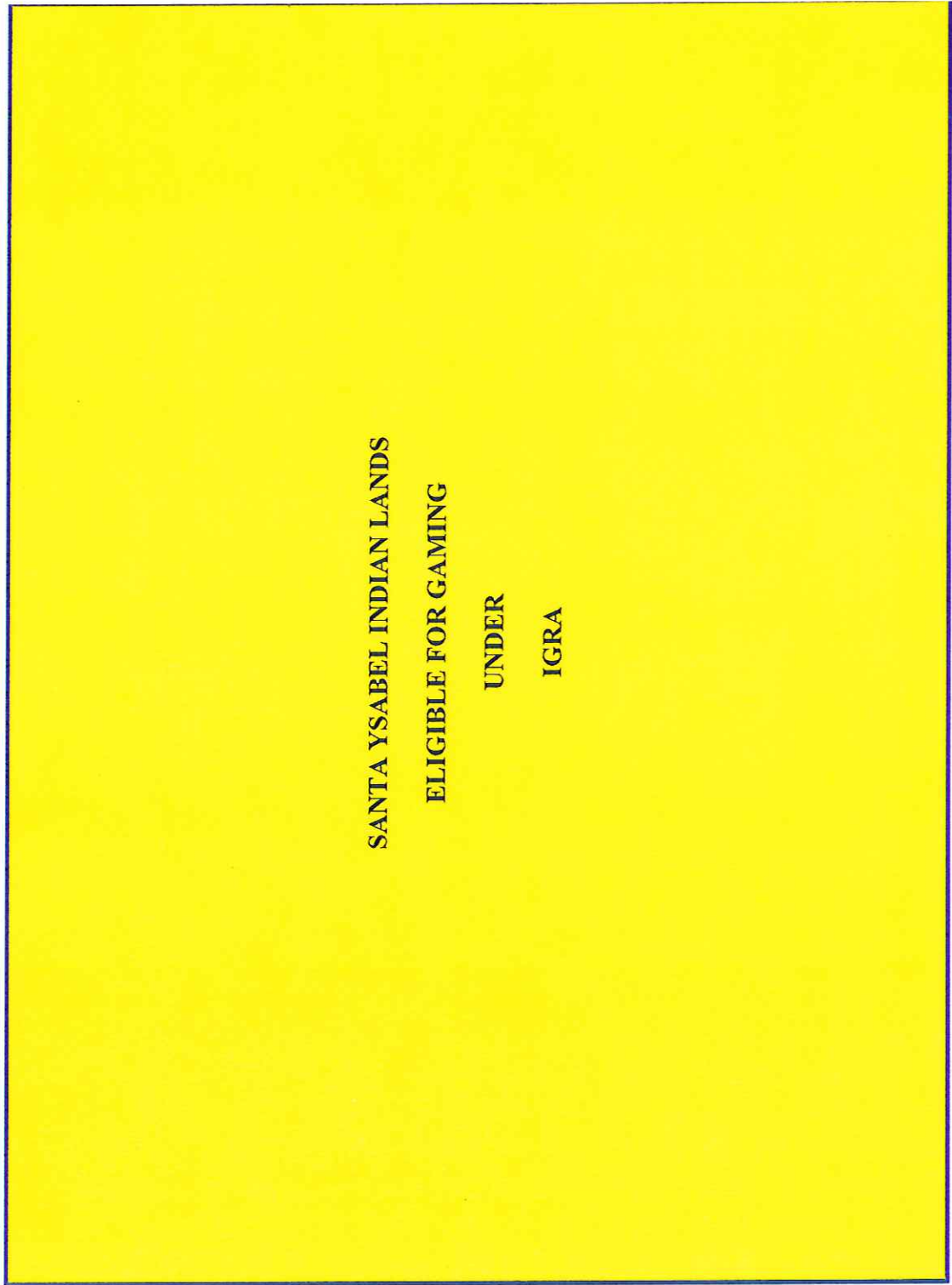
1. Electronic, computer or other technologic aid means any machine or device that
 - a. assists a player or the playing of a game;
 - b. is not an electronic or electromechanical facsimile; and
 - c. is operated according to applicable Federal communications law.
2. Electronic, computer or other technologic aids include, but are not limited to, machines or devices that:
 - a. broaden the participation levels in a common game;
 - b. facilitate communication between and among gaming sites; or
 - c. allow a player to play a game with or against other players rather than with or against a machine.
3. Examples of electronic, computer or other technologic aids include pull tab dispensers and/or readers, telephones, cables, televisions, screens, satellites, bingo blowers, electronic player stations, or electronic cards for participants in bingo games.

The NIGC regulation which applies to any Class III games using an electronic or electromechanical facsimile of any game of chance is found at:

25 C.F.R. §502.8 Electronic or electromechanical facsimile.

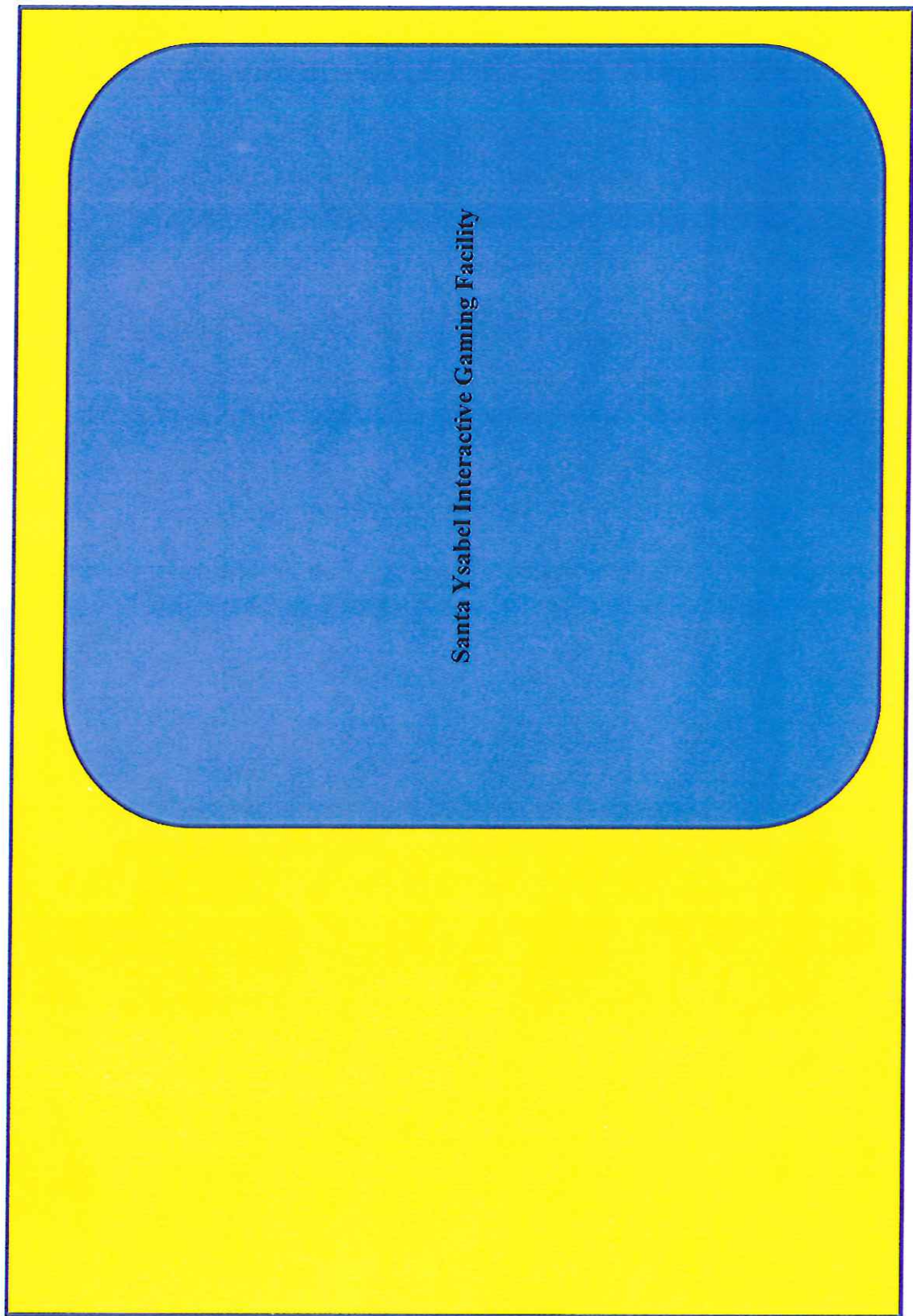
Electronic or electromechanical facsimile means a game played in an electronic or electromechanical format that replicates a game of chance by incorporating all of the characteristics of the game, except when, for bingo, lotto, and other games similar to bingo, the electronic or electromechanical format broadens participation by allowing multiple players to play with or against each other rather than with or against a machine.

Timeline diagram 1 re: Indian lands

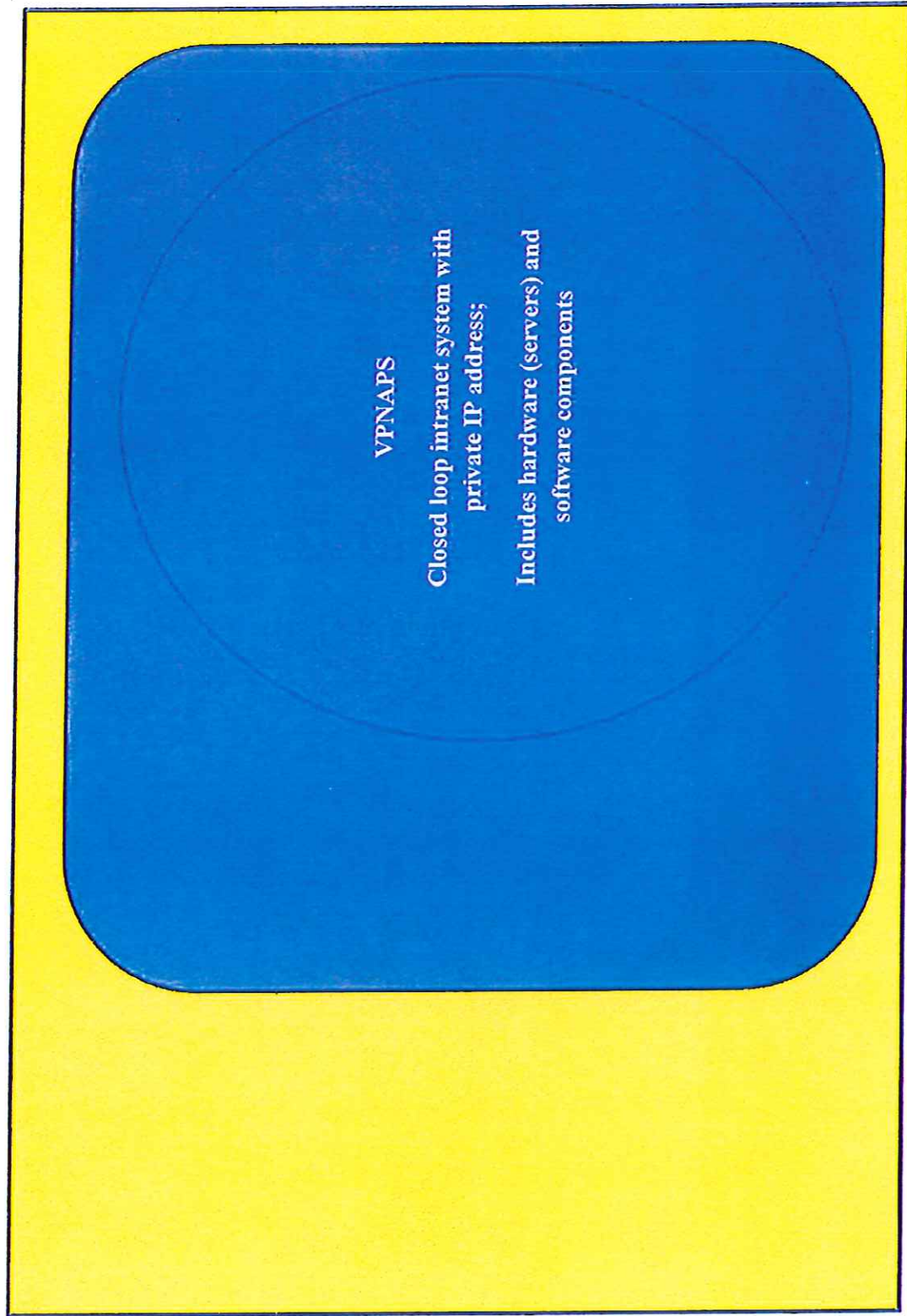


Non-Indian Lands

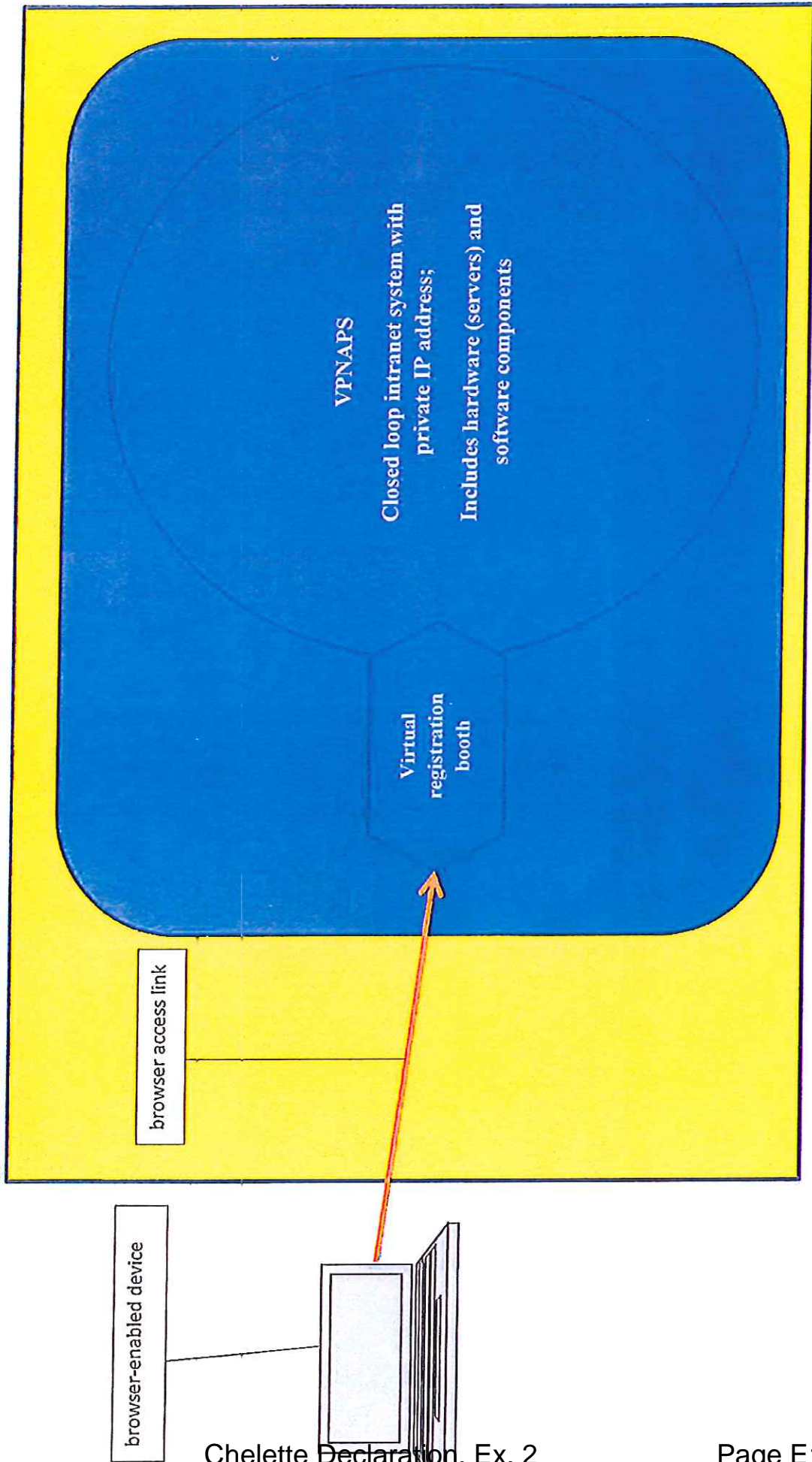
Timeline diagram 2 re: Santa Ysabel Interactive facility



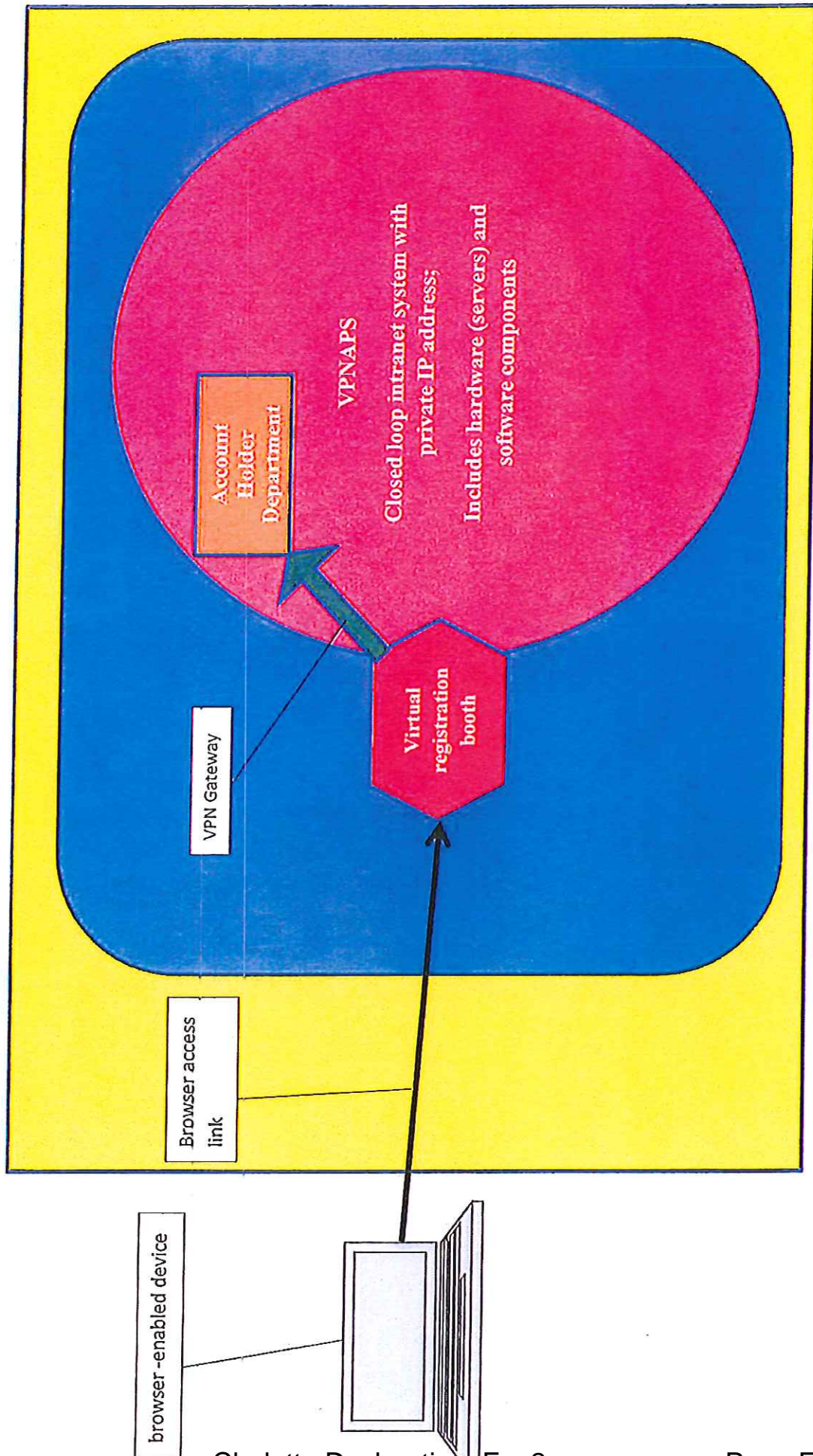
Timeline diagram 3 re: VPNAPS



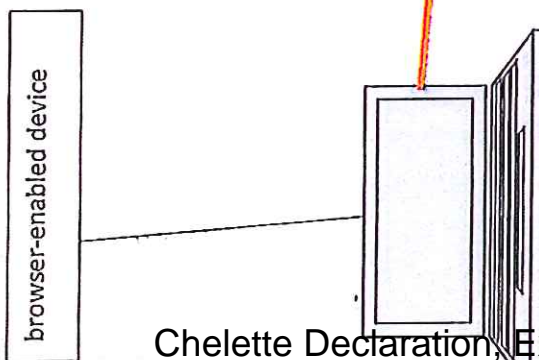
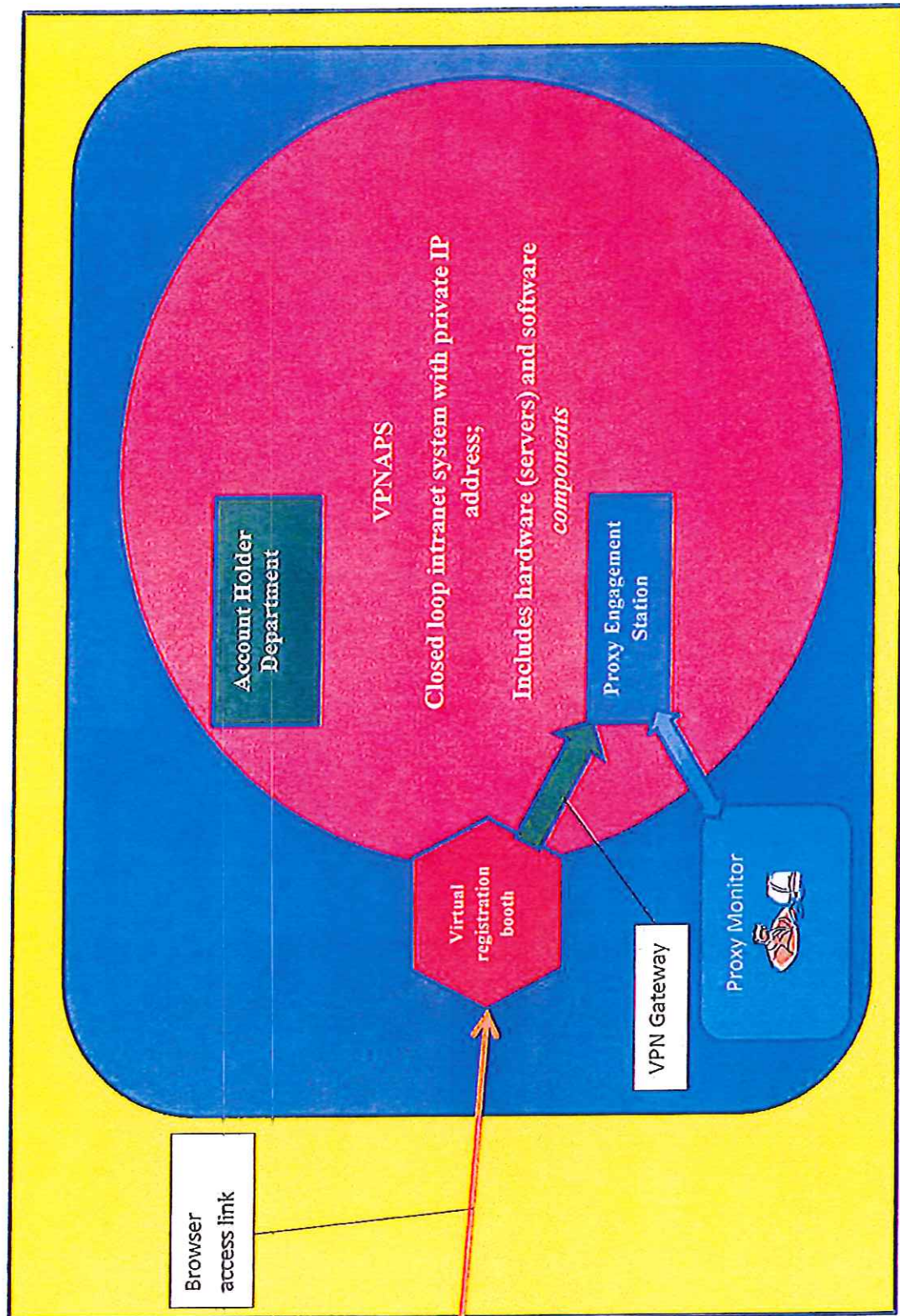
Timeline diagram 4 re: registration booth



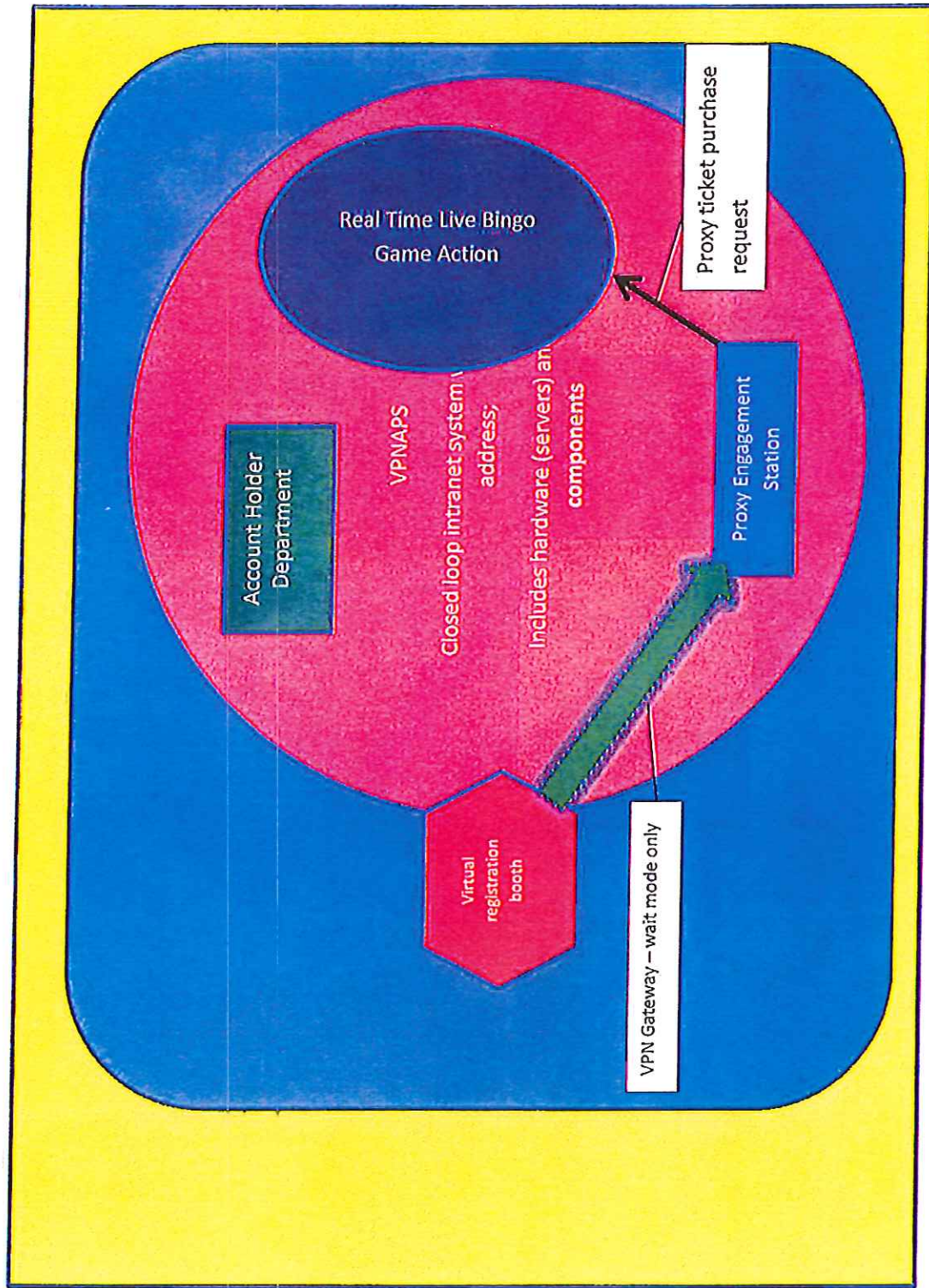
Timeline diagram 5 re: account holder dept



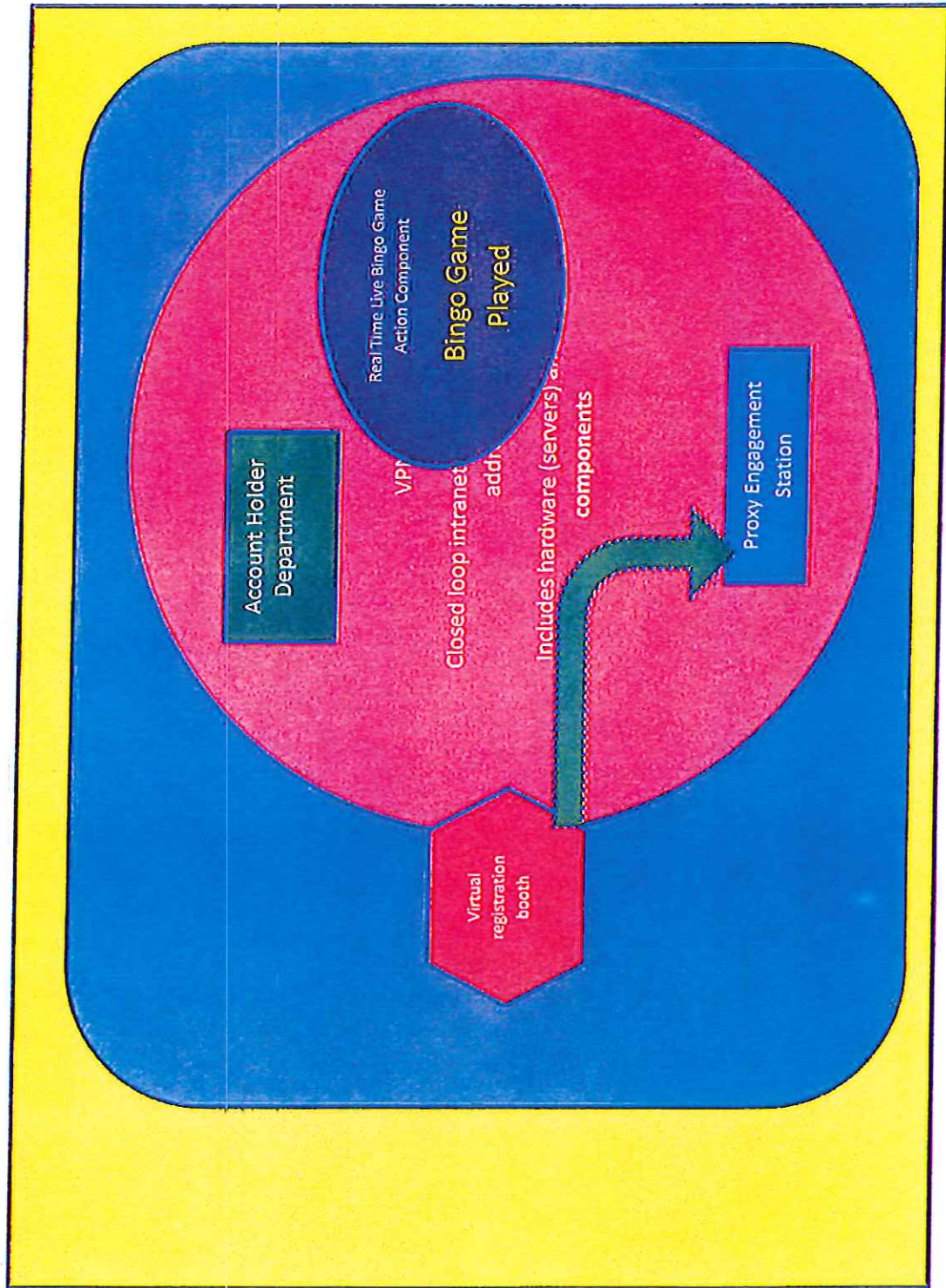
Timeline diagram 6 re: proxy station



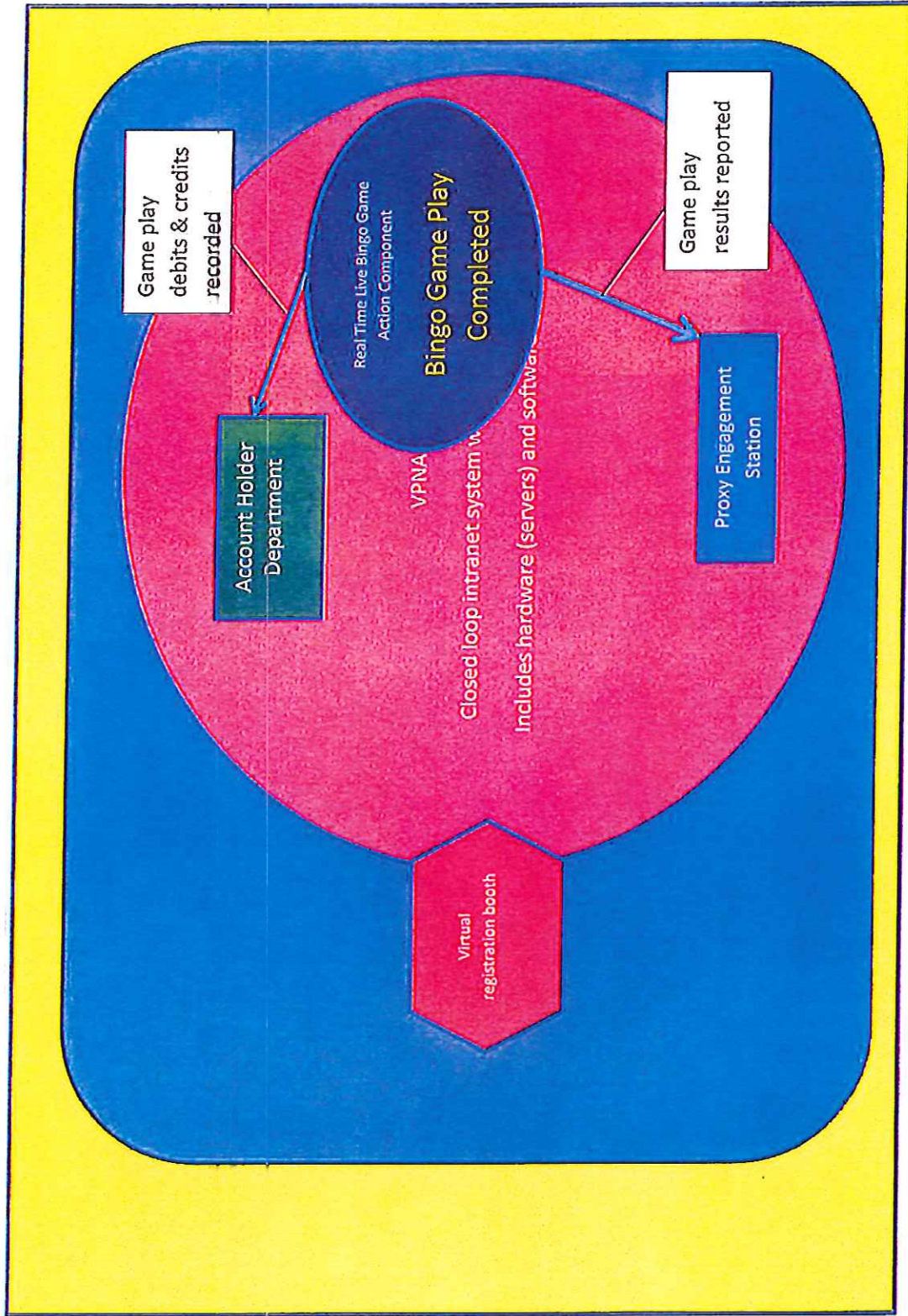
Timeline diagram 7 re: proxy request to game action



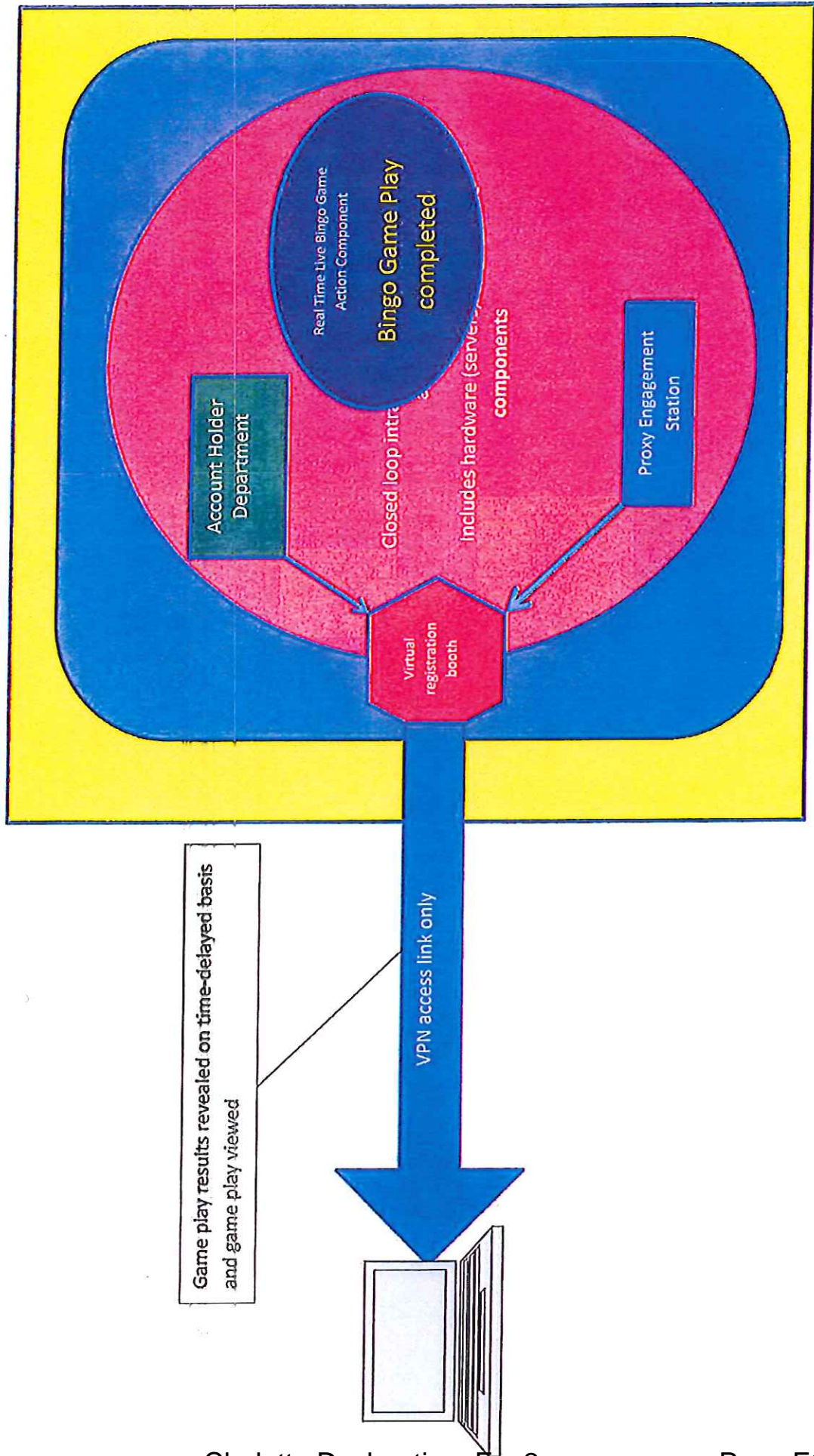
Timeline diagram 8 re: game action play



Timeline diagram 9 re: game action results



Timeline diagram 10 re: game action results revealed & reported



Great Luck, LLC - VPNAPS (Proxy) Security Overview - v.62

July 2013

The following describes the components of the Great Luck, LLC - Virtual Private Network Assisted Play System - ("VPNAPS") that incorporate specific security methodology, processes and devices.

1. Web Server and SSL:

- SSL 2048bit with Extended Validation certificate → All data from/to the client to the server is encrypted.
- CSRF Form tokens → To prevent any user from hijacking the current user's form request.
- CrossDomain XML to deny cross site submission requests.
- Mod_Evasive → To prevent multiple requests within a single second causing server slowdown (common DDOS attack).
- All data sent from the agent to a third party gateway (kyc, payment, etc), and all data sent from the audit cluster to a third party gateway, are encrypted.

2. Database:

- Protection against SQL Injection - Stripping all illegal characters, escaping quotes, No user input is added to the database directly.
- The socket server uses a Read-Only MYSQL username to read information from the database, instead of writing to it. The SmartFox username only has write access to it's own table AmGISmartfox.
- Software firewalls for the Agent and Audit Cluster Admin (located in app/config/security.yml)

3. Payment Gate

- The Agent and the Audit Cluster make PCI compliant connections to the Payment Gateway, through a secure socket connection SSL.
- All submissions for depositing and withdrawing funds are made through the Payment Gateway. The Audit Cluster contacts the payment gateway processes these funds.
- The Agent verifies monetary transactions from the agent. The agent just verifies client's balance and identity.