

CALIFORNIA GAMBLING CONTROL COMMISSION

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**Agenda Item #** 3***Memorandum***

Date: October 5, 2009

To: Dean Shelton, Chairman
Stephanie Shimazu, Commissioner
Alexandra Vuksich, Commissioner

Via: Terri A. Cia, Executive Director

From: Richard Ross, Deputy Director
Compliance Division

Re: Gaming Device License Draw Recommendations

Recommendation:

Based upon the attached documentation, Compliance staff recommends to the Commission, the issuance of the 4,397 gaming device licenses as follows and variance to draw procedures noted here in:

Big Sandy Band Rancheria – 1,650

Blue Lake Rancheria – 40

Cabazon Band of Mission Indians – 44

Cachil Dehe Band of Wintun Indians – 427

La Jolla Band of Luiseno Mission Indians - 650

Middletown Rancheria – 100

Mooretown Rancheria – 45

Paskenta Band of Nomlaki Indians – 226

Picayune Rancheria – 200

Rincon Band of San Luiseno Mission Indians – 400

San Pasqual Band of Diegueno Mission Indians – 428

Tuolumne Band of Me-Wuk Indians - 187

Summary:

The recommended allocations are summarized in Exhibits A, B, and C for Executive Management and Commissioners' review. To affect the court ordered draw, the Commission must vote on the license allocation on or before the October 5, 2009 Commission meeting.

Due to the court ordered timeline and specific draw procedures, the prior allocation process and certain procedures to implement it were not applied. To achieve the timeline the staff omitted the two week review of applications. Further, the need for a joint Tribal-State meeting was omitted in that the court formula dictated the allocation and the number of licenses available allowed for all requesting Tribes to receive their requested number which precludes dispute of allocation. The prior practice of prepayment was eliminated in this draw, to preclude the potential of a Federal court stay impacting the receipt and retention of large fees by the Commission without issuing any licenses.

Tribes have been notified of the one-time non-refundable prepayment fee required by Compact section 4.3.2.2(e) incidental to their requests. Licenses will be issued upon receipt of the prepayment in the form of certified or cashier's check which will be accepted the day of the Commission meeting until 5:00 PM on October 12, 2009 and contingent upon Commissioner approval of the recommendations.

Participating Tribes are being notified of responsibilities affecting RSTF contributions and distributions, one year Commercial Operation requirements, verification of commercial operations, and operation of entitlement devices before license devices.

Background:

The Commission was ordered pursuant to a federal court decision entered on August 19, 2009, in *Cachil Dehe Band of Wintun Indians of the Colusa Indian Community v. State of California*, to issue up to 10,549 additional Gaming Device licenses. The draw for the Gaming Device licenses was ordered to be conducted within 45 days of the entry of judgment.

By letter dated August 27, 2009, Tribes with effective 1999 Tribal-State Gaming Compacts were advised that a Gaming Device license draw would be conducted at a Commission meeting to be held on September 28, 2009. The Financial Audits Section was later advised by the Commission's Legal Department to conduct the draw on October 5, 2009. On September 16, 2009, Tribes were advised by letter of the change in the Gaming Device license draw meeting date.

Attachment A contains the timeline of actions for the license draw.

There were twelve (12) Tribes that applied for a total of 4,397 gaming device licenses. The twelve Tribes were prioritized into Compact priority rankings in accordance with the court order. A Tribe's ranking is determined first by the number of gaming devices the Tribe operated on September 1, 1999. Pursuant to the terms of the court order, a Tribe will be permitted to remain in a priority tier until it has drawn the maximum number of licenses permitted from that tier, regardless of whether it has previously drawn from that tier. Tier (i) allows a maximum of up to 150 licenses, tier (ii) allows up to an additional 500 licenses, tier (iii) allows up to an additional 750 licenses, tier (iv) allows up to an additional 500 licenses, and tier (v) allows additional licenses up to the maximum of 2,000 gaming devices.

Detail for Recommended Rankings:

✓ **Big Sandy Rancheria**

Big Sandy Rancheria has requested 1,650 licenses. It is currently authorized to operate up to 350 gaming devices. This includes:

- 239 gaming devices grandfathered on September 1, 1999, and
- 111 entitlements under Compact Section 4.3.1;

Big Sandy Rancheria would initially be placed at priority (ii) because it had 239 gaming devices as of September 1, 1999. It would be allowed to draw 500 licenses under priority (ii), 750 licenses under priority (iii) and up to 500 licenses under priority (iv). It is recommended that this Tribe be allocated 500 licenses under priority (ii), 750 licenses under priority (iii), and 400 licenses under priority (iv).

✓ **Blue Lake Rancheria**

Blue Lake Rancheria has requested 40 licenses. It is currently authorized to operate up to 763 gaming devices. This includes:

- No gaming devices grandfathered on September 1, 1999,
- 350 entitlements under Compact Section 4.3.1;
- 150 gaming device licenses acquired during Draw #2;
- 200 gaming device licenses acquired during Draw #3;
- 50 gaming device licenses acquired during Draw #7; and
- 13 gaming devices licenses acquired during Draw #8.

Blue Lake Rancheria would initially be placed at priority (i) because it had no gaming devices as of September 1, 1999. It would be allowed to draw 150 licenses under priority (i) and up to 500 licenses under priority (ii). It has since acquired 413 licenses in previous draws which places them in priority (ii) for this Draw. It is recommended that this Tribe be allocated 40 gaming device licenses under the priority (ii).

✓ **Cabazon Band of Mission Indians**

Cabazon Band of Mission Indians has requested 44 licenses. It is authorized to operate up to 1,956 gaming devices. This includes:

- 741 gaming devices grandfathered on September 1, 1999;
- 559 Sides licenses that were ratified by the CGCC on June 12, 2002; and
- 656 gaming device licenses acquired during Draw #1;

Cabazon Band of Mission Indians would initially be placed at priority (iii) because it had 741 gaming devices as of September 1, 1999. It would be allowed to draw 750 licenses under priority (iii), 500 licenses under priority (iv), and up to 44 licenses under priority (v). It has since acquired 1,215 licenses in previous draws which places them in priority (iv) for this Draw. It is recommended that this Tribe be allocated 35 gaming device licenses under priority (iv). These licenses move the Tribe to a priority (v) where it is recommended an additional 9 gaming device licenses be allocated.

✓ **Cachil Dehe Band of Wintun Indians (Colusa Indian Community)**

Colusa Indian Community has requested 427 licenses. It is authorized to operate up to 846 gaming devices. This includes:

- 523 gaming devices grandfathered on September 1, 1999;
- 250 gaming device licenses acquired during Draw #1; and
- 73 gaming device licenses acquired during Draw #4.

Colusa Indian Community would initially be placed at priority (iii) because it had 523 gaming devices as of September 1, 1999. It would be allowed to draw up to 750 additional licenses under priority (iii). It has since acquired 323 licenses in previous draws which places them in priority (iii) for this Draw. It is recommended that this Tribe be allocated 427 gaming device licenses under priority (iii).

✓ **La Jolla Band of Luiseno Mission Indians**

La Jolla Band of Luiseno Mission Indians has requested 650 licenses. It is authorized to operate up to 350 gaming devices. This includes:

- No gaming devices grandfathered on September 1, 1999,
- 350 entitlements under Compact Section 4.3.1;

La Jolla Band of Luiseno Mission Indians would initially be placed at priority (i) because it had no gaming devices as of September 1, 1999. It would be allowed to draw 150 licenses under priority (i) and up to 500 licenses under priority (ii). It is recommended that this Tribe be allocated 150 gaming device licenses under priority (i) and 500 gaming device licenses under priority (ii).

✓ **Middletown Rancheria**

Middletown Rancheria has requested 100 licenses. It is authorized to operate up to 620 gaming devices. This includes:

- 150 licenses grandfathered on September 1, 1999;
- 200 entitlements under Compact Section 4.3.1,
- 150 Sides licenses that were ratified by the CGCC on June 12, 2002;
- 108 licenses acquired during Draw #5; and
- 12 licenses acquired during Draw #8.

Middletown Rancheria would initially be placed at priority (ii) because it had 150 licenses as of September 1, 1999. It would be allowed to draw up to 500 additional licenses under priority (ii). It has since acquired 120 licenses in previous draws which places them in priority (ii) for this Draw. It is recommended that this Tribe be allocated 100 gaming device licenses under priority (ii).

✓ **Mooretown Rancheria**

Mooretown Rancheria has requested 45 licenses. It is authorized to operate up to 1,100 gaming devices. This includes:

- 500 licenses grandfathered on September 1, 1999;
- 500 Sides licenses that were ratified by the CGCC on June 12, 2002; and
- 100 licenses acquired during Draw #7.

Mooretown Rancheria would initially be placed at priority (ii) because it had 500 licenses as of September 1, 1999. It would be allowed to draw up to 500 additional licenses under priority (ii) and up to 750 additional licenses under priority (iii). It has since acquired 600 licenses in previous draws which places them in priority (iii) for this Draw. It is recommended that this Tribe be allocated 45 gaming device licenses under priority (iii).

✓ **Paskenta Band of Nomlaki Indians**

Paskenta Band of Nomlaki Indians has requested 226 licenses. It is authorized to operate up to 773 gaming devices. This includes:

- No licenses grandfathered on September 1, 1999;
- 350 entitlements under Compact Section 4.3.1,
- 300 Sides licenses that were ratified by the CGCC on June 12, 2002;
- 25 licenses acquired during Draw #1;
- 25 licenses acquired during Draw #2; and
- 73 licenses acquired during Draw #4

Paskenta Band of Nomlaki Indians would initially be placed at priority (i) because it had no gaming devices as of September 1, 1999. It would be allowed to draw 150 licenses under priority (i) and up to 500 licenses under priority (ii). It has since acquired 423 licenses in previous draws which places them in priority (ii) for this Draw. It is recommended that this Tribe be allocated 226 gaming device licenses under priority (ii)

✓ **Picayune Rancheria**

Picayune Rancheria has requested 200 licenses. It is authorized to operate up to 1,800 gaming devices. This includes:

- No licenses grandfathered on September 1, 1999;
- 350 entitlements under Compact Section 4.3.1,
- 1,250 Sides licenses that were ratified by the CGCC on June 12, 2002; and
- 200 licenses acquired during Draw #1;

Picayune Rancheria would initially be placed at priority (i) because it had no gaming devices as of September 1, 1999. It would be allowed to draw 150 licenses under priority (i), 500 licenses under priority (ii), 750 licenses under priority (iii), and up to 250 licenses under priority (iv). It has since acquired 1,450 licenses in previous draws which places them in priority (iv) for this Draw. It is recommended that this Tribe be allocated 200 gaming devices under priority (iv).

✓ **Rincon Band of San Luiseno Mission Indians**

Rincon Band of San Luiseno Mission Indians has requested 400 licenses. It is authorized to operate up to 1,600 gaming devices. This includes:

- No licenses grandfathered on September 1, 1999;
- 350 entitlements under Compact Section 4.3.1,
- 1,650 Sides licenses that were ratified by the CGCC on June 12, 2002; and
- (400) licenses surrendered after June 19, 2002;

Rincon Band of San Luiseno Mission Indians would initially be placed at priority (i) because it had no gaming devices as of September 1, 1999. It would be allowed to draw 150 licenses under priority (i), 500 licenses under priority (ii), 750 licenses under priority (iii), and up to 250 licenses under priority (iv). It has since acquired 1,250 licenses in previous draws which places them in priority (iii) for this Draw. It is recommended that this Tribe be allocated 150 gaming devices under priority (iii). These licenses move the Tribe to a priority (iv) where it is recommended an additional 250 gaming device licenses be allocated.

✓ **San Pasqual Band of Diegueno Mission Indians**

San Pasqual Band of Diegueno Mission Indians has requested 428 licenses. It is authorized to operate up to 1,572 gaming devices. This includes:

- No licenses grandfathered on September 1, 1999;
- 350 entitlements under Compact Section 4.3.1,
- 1,650 Sides licenses that were ratified by the CGCC on June 12, 2002;
- 72 licenses acquired under Draw #4; and
- (500) licenses surrendered after June 19, 2002.

San Pasqual Band of Diegueno Mission Indians would initially be placed at priority (i) because it had no gaming devices as of September 1, 1999. It would be allowed to draw 150 licenses under priority (i), 500 licenses under priority (ii), 750 licenses under priority (iii), and up to 250 licenses under priority (iv). It has since acquired 1,222 licenses in previous draws which places them in priority (iii) for this Draw. It is recommended that this Tribe be allocated 178 gaming devices under priority (iii). These licenses move the Tribe to a priority (iv) where it is recommended an additional 250 gaming device licenses be allocated.

✓ **Tuolumne Band of Me-Wuk Indians**

Tuolumne Band of Me-Wuk Indians has requested 187 licenses. It is authorized to operate up to 1,013 gaming devices. This includes:

- No licenses grandfathered on September 1, 1999;
- 350 entitlements under Compact Section 4.3.1,
- 250 Sides licenses that were ratified by the CGCC on June 12, 2002;
- 340 licenses acquired under Draw #2; and
- 73 licenses acquired under Draw #4.

Tuolumne Band of Me-Wuk Indians would initially be placed at priority (i) because it had no gaming devices as of September 1, 1999. It would be allowed to draw 150 licenses under priority (i), 500 licenses under priority (ii), and 750 licenses under priority (iii). It has since acquired 663 licenses in previous draws which places them in priority (iii) for this Draw. It is recommended that this Tribe be allocated 187 gaming devices under priority (iii).

cc: Joginder Dhillon, Chief Counsel

California Gambling Control Commission
Compliance Division, Financial Audits Section
License Draw No. 9 - Recommended Gaming Device Allocations By Draw Round

	Tribe	Compact Section 4.3.2.2.(a)(vi) Draw Rounds					Recommended Gaming Device License Allocations and Numbers of Authorized Gaming Devices Before and After Draw No. 9		
		1 st	2 nd	3 rd	4 th	5 th	Allocation All Rounds	Authorized Number of Gaming Devices Before Draw	Authorized Number of Gaming Devices After Draw
1	Paskenta Band of Nomlaki Indians		226				226	773	999
2	Picayune Rancheria of the Chukchansi Indians				200		200	1800	2000
3	San Pasqual Band of Diegueno Mission Indians			178	250		428	1572	2000
4	Rincon Band of San Luiseno Mission Indians			150	250		400	1600	2000
5	Big Sandy Band of Western Mono Indians		500	750	400		1650	350	2000
6	La Jolla Band of Luiseno Mission Indians	150	500				650	350	1000
7	Middletown Rancheria of Pomo Indians		100				100	620	720
8	Cachil Dehe Band of Wintun Indians			427			427	846	1273
9	Cabazon Band of Mission Indians				35	9	44	1956	2000
10	Tuolumne Band of Me-Wuk Indians			187			187	1013	1200
11	Mooretown Rancheria			45			45	1100	1145
12	Blue Lake Rancheria		40				40	763	803
	Totals	150	1366	1737	1135	9	4397	12743	17140

GAMING DEVICE LICENSE DRAW
October 5, 2009
Commission Staff Proposal

October 2009 Gaming Device License Draw

APPLICATION INFORMATION							Applicant's Priority Draw History								DRAW # LICENSE ALLOCATION													
Tribe	Date Application Received	Number of Authorized Gaming Devices operated on September 1, 1999 Line (1)	350 minus the number on Line (1), or 0 if less than 0 Line (2)	Number of Gaming Device Licenses Held Line (3)	Subtotal	Number of Gaming Device License Desired Line (4)	Total of Line (1) through (4) Line (5)	1	2	3	4	5	6	7	8	First Round Priority ¹	Number of Licenses Allocated in First Round	Second Round Priority ¹	Number of Licenses Allocated in Second Round	Third Round Priority ¹	Number of Licenses Allocated in Third Round	Fourth Round Priority ¹	Number of Licenses Allocated in Fourth Round	Fifth Round Priority ¹	Number of Licenses Allocated in Fifth Round	Total Number of Licenses Allocated All Rounds ²	Total Authorized Gaming Devices after Allocation	Un-met license request
								Draw Sep 2002	Draw July 2003	Draw Dec 2003	Draw Oct 2004	Draw Oct 2005	Draw Aug 2006	Draw Aug 2007	Draw Dec 2008													
1. Paskenta Band of Nomlaki Indians	9/2/2009	0	350	423	773	226	999	(iii) o	(iii) o	(iv) nd	(iv) o	(v) nd	(v) nd	(v) nd	(v) nd	(i)	150	(ii)	226	(ii)	750	(iv)	400			1,650	2,000	0
2. Picayune Rancheria of the Chukchansi Indians	9/8/2009	0	350	1,450	1,800	200	2,000	(iv) o	(v) nd	(v) nd	(v) nd	(v) nd	(v) nd	(v) nd	(v) nd													
3. San Pasqual Band of Diegueno Mission Indians	9/8/2009	0	350	1,222	1,572	428	2,000		(iv) nd		(iv) o	(v) nd	(v) nd	(v) nd	(v) nd													
4. Rincon Band of San Luiseno Mission Indians	9/9/2009	0	350	1,250	1,600	400	2,000				(v) nd	(v) nd	(v) nd	(v) nd	(v) nd													
5. Big Sandy Rancheria	9/9/2009	239	111	0	350	1,650	2,000																					
6. La Jolla Band of Luiseno Mission Indians	9/14/2009	0	350	0	350	650	1,000																					
7. Middletown Rancheria of Pomo Indians	9/15/2009	150	200	270	620	100	720					(iii) o			(iv) o													
8. Cachil Dehe Band of Wintun Indians	9/15/2009	523	0	323	846	427	1,273	(iii) o		(iv) nd	(iv) o	(v) nd	(v) nd	(v) nd	(v) nd													
9. Cabazon Band of Mission Indians	9/15/2009	741	0	1,215	1,956	44	2,000	(iv) o	(v) nd	(v) nd	(v) nd	(v) nd	(v) nd	(v) nd	(v) nd													
10. Tuolumne Band of Me-Wuk Indians	9/16/2009	0	350	663	1,013	187	1,200		(iii) o		(iv) o				(v) nd													
11. Mooretown Rancheria	9/16/2009	500	0	600	1,100	45	1,145								(iii) o													
12. Blue Lake Rancheria	9/16/2009	0	350	413	763	40	803		(i) o	(ii) o					(iv) o													
Total		2,153	2,761	7,829	12,743	4,397	17,140										150		1,366		1,737		1,135		9	4,397	17,140	0

¹ Priority rankings are based on the federal court decision entered on August 19, 2009, in *Cachil Dehe Band of Wintun Indians of the Colusa Indian Community v. State of California*.

² 4,397 of 10,549 available gaming device licenses are allocated in Draw #9.

o = obtained Gaming Device Licenses in the draw
nd = applied, but did not obtain Gaming Device Licenses in the draw

**California Gambling Control Commission
Gaming Device License Draw Number 9
TIMELINE**

August 25, 2009	Tuesday	Submit draft draw notification letter and application form for review.
August 27, 2009	Thursday	Send out draw notification letters and application forms.
September 16, 2009	Wednesday	Deadline for submitting draw application forms CGCC office at 5:00
September 17, 2009 through October 1, 2009	Thursday	Legal/Commission review of Compliance Section staff license draw allocation recommendations.
October 5, 2009	Monday	Commission meeting at 10:00 AM.
October 6, 2009	Tuesday	Gaming Device license certificates awarded.

Areas of variance with Commission Policy:

1. There will not be a two week review of the gaming device applications and gaming device license allocations.
2. There will not be a joint Tribal/State meeting.