

CALIFORNIA GAMBLING CONTROL COMMISSION

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DATE: February 5, 2003

TO: Gambling Control Commission

FROM: Gary Qualset, Deputy Director
Licensing and Compliance Division

SUBJECT: Revenue Sharing Trust Fund Report of Distribution of Funds to Non-Compact Tribes for the Quarter Ended December 31, 2002

ISSUE: *Can the Gambling Control Commission (Commission) make a current quarterly distribution from the Indian Gaming Revenue Sharing Trust Fund (IGRSTF) to each eligible Non-Compact Tribe for the quarter ended December 31, 2002?*

The Commission has a fiduciary responsibility for the IGRSTF as Trustee of the IGRSTF per all of the Tribal-State Gaming Compacts (Compacts) as noted in Section 4.3.2(a)(ii). Additionally, the Commission shall make distributions in accordance with Sections 4.3.2.1(a) and (b).

The IGRSTF serves as the depository for payments made by Tribes that acquire and maintain gaming device licenses and interest income earned by the IGRSTF. The process for allocating licenses and the awarding thereof is outlined in Section 4.3.2.2. This Section also provides for the amounts that shall be paid for license fees.

To date, the Commission has approved the distribution of approximately \$67.3 million from the IGRSTF covering nine fiscal quarters from July 1, 2000 through September 30, 2002. Distributions from the IGRSTF were brought current for the quarter ended June 30, 2002 and are now being made on a quarterly basis. The current distribution that is being proposed will make a distribution of the actual amounts in the IGRSTF for the quarter ended December 31, 2002, leaving a balance in the IGRSTF of less than \$1.00. As shown in Exhibit 1, all eligible tribes will be receiving \$111,234.00 for this distribution.

It is also being recommended that this distribution be on a conditional basis pending receipt of certification of the maximum number of gaming devices operated during the quarter by each tribe that is required to submit a completed certification form. Tribes that are required to complete the certification form are those tribes that entered into Compacts with the State of California and have operated less than three hundred-fifty gaming devices during the previous quarter. This new policy goes into effect this distribution period in order for the Commission to disburse funds to eligible tribes more efficiently. See Exhibit 4 for a copy of the letter that was sent to all Tribes informing them of this new procedure. Prior to this distribution, all tribes eligible to receive distributions were required to submit certification forms.

Pursuant to Item 0855-101-0366 of the Budget Act of 2002, \$46 million was appropriated for distribution to noncompact tribes. Per Provision 3 of Item 0855-101-0366, the following items are requested according to control language as part of any request to augment Item 0855-101-0366. Although no augmentation is being requested with this distribution, we are submitting the following report information voluntarily.

1. The Methodology for Determining a Non-Compact Tribe

Per Section 4.3.2(a)(i) of the Compact, the term "Compact Tribe" and "Non-Compact Tribe" is defined as:

A "Compact Tribe" is a tribe having a compact with the State that authorizes the Gaming Activities authorized by this Compact. Federally-recognized tribes that are operating fewer than 350 Gaming Devices are "Non-Compact Tribes." Non-Compact Tribes shall be deemed third party beneficiaries of this and other compacts identical in all material respects. A Compact Tribe that becomes a Non-Compact Tribe may not thereafter return to the status of a Compact Tribe for a period of two years becoming a Non-Compact Tribe (sic).

For this distribution from the IGRSTF, the Commission used the following procedures as the methodology for determining if a tribe is a Non-Compact Tribe:

- A. Identify all tribes in the State of California that are Federally-recognized based on information obtained from the U. S. Department of Interior, Bureau of Indian Affairs, and a legal opinion received from the State Attorney General's Office.
- B. Request that each Non-Compact Tribe that entered into Compacts with the State that is to receive a distribution certify the maximum number of gaming devices operated during the quarter by completing and filing a Tribal-State Compact Gaming Device Certification Form (CGCC-C2002.02). Additionally, the Commission notified all tribes of the new procedure to be used to verify eligibility as mentioned above and described in Exhibit 4.
- C. Classify all tribes identified in step A based on the information obtained in Step B as either: 1) Compact Tribes operating 350 or more gaming devices, 2) Non-Compact Tribes as defined by the Compact, or 3) non-compact gaming tribes.
- D. Classify all Non-Compact Tribes identified in part 2) of step C as eligible Non-Compact non-gaming tribes and Non-Compact gaming tribes that have submitted the requested certification form to the Commission if required.
- E. Prepare a list of Non-Compact Tribes based on the most recent information reported to the Commission.

2. A list of the Non-Compact Tribes Identified Based on the Commission's Methodology

A list of all Non-Compact Tribes as identified by the methodology identified in item 1 above is attached as Exhibit 1.

3. A Trust Fund Condition Report Including the Amount of Revenue Received From Each Compact Tribe

A trust fund condition statement for the IGRSTF through December 31, 2002, for fiscal year 2002-03 is attached as Exhibit 2. A listing of the unaudited amount of revenue from each Compact Tribe as received by the Commission is attached as Exhibit 3.

4. The Amount of Funds to be Distributed to Each Non-Compact Tribe

The amount of funds to be distributed to each Non-Compact Tribe is listed in Exhibit 1 that is attached. The recommended distribution to each tribe listed in Exhibit 1 is subject to verification of eligibility and receipt of a Tribal-State Compact Gaming Device Certification Form (CGCC-C2002.02) if required.

RECOMMENDATION: *It is recommended that the Commission approve the current full quarterly distribution of approximately \$8.34 million of all payments made by tribes and any interest income received by the IGRSTF during the most recent quarter ended December 31, 2002, to the listed tribes that are determined to be eligible Non-Compact Tribes in accordance with the Commission's identified methodology for determining a Non-Compact Tribe as shown in Exhibit 1 attached to this report.*

Exhibit 1**Non-Compact Tribes Eligible to Receive a Distribution from the IGRSTF (based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

Non-Compact Indian Tribe	Amount of Funds Recommended to be Distributed
Alturas Indian Rancheria	\$111,234.00
Augustine Band of Mission Indians	111,234.00
Bear River Band of the Rohnerville Rancheria	111,234.00
Benton Paiute Reservation	111,234.00
Big Lagoon Rancheria	111,234.00
Big Pine Reservation	111,234.00
Big Sandy Rancheria	111,234.00
Blue Lake Rancheria	111,234.00
Bridgeport Paiute Indian Colony	111,234.00
Buena Vista Rancheria	111,234.00
Cahto Indian Tribe of the Laytonville Rancheria	111,234.00
Cahuilla Band of Mission Indians	111,234.00
California Valley Miwok Tribe	111,234.00
Cedarville Rancheria	111,234.00
Chemehuevi Indian Tribe	111,234.00
Cher-Ae Heights Indian Community	111,234.00
Chicken Ranch Rancheria	111,234.00
Cloverdale Rancheria	111,234.00
Cold Springs Rancheria	111,234.00
Colorado River Indian Tribes	111,234.00
Cortina Rancheria	111,234.00
Cuyapaipe Community of Mission Indians	111,234.00
Death Valley Timbi-Sha Shoshone Tribe	111,234.00
Dry Creek Rancheria	111,234.00
Elem Indian Colony	111,234.00
Elk Valley Rancheria	111,234.00
Enterprise Rancheria	111,234.00
Fort Bidwell Indian Community	111,234.00
Fort Independence Reservation	111,234.00
Fort Mojave Indian Tribe	111,234.00
Graton Rancheria	111,234.00
Greenville Rancheria	111,234.00
Grindstone Rancheria	111,234.00
Guidiville Rancheria	111,234.00
Hoopa Valley Tribe	111,234.00

Exhibit 1 (Continued)**Non-Compact Tribes Eligible to Receive a Distribution from the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

Non-Compact Indian Tribe	Amount of Funds Recommended to be Distributed
Inaja-Cosmit Mission Indians	111,234.00
Ione Band of Miwok Indians	111,234.00
Jamul Indian Village	111,234.00
Karuk Tribe of California	111,234.00
La Jolla Band of Mission Indians	111,234.00
La Posta Band of Mission Indians	111,234.00
Lone Pine Reservation	111,234.00
Los Coyotes Band of Cahuilla Indians	111,234.00
Lower Lake Rancheria	111,234.00
Lytton Rancheria	111,234.00
Manchester Point Arena Rancheria	111,234.00
Manzanita Mission Indians	111,234.00
Mechoopda Indian Tribe	111,234.00
Mesa Grande Mission Indians	111,234.00
Northfork Rancheria	111,234.00
Paiute Bishop Community	111,234.00
Picayune Rancheria	111,234.00
Pinoleville Reservation	111,234.00
Pit River Tribe	111,234.00
Potter Valley Rancheria	111,234.00
Quartz Valley Indian Community	111,234.00
Quechan Tribe of Fort Yuma	111,234.00
Ramona Mission Indians	111,234.00
Redwood Valley Rancheria	111,234.00
Resighini Rancheria	111,234.00
Round Valley Indian Tribe	111,234.00
Santa Rosa Band of Cahuilla Mission Indians	111,234.00
Santa Ysabel Mission Indians	111,234.00
Scotts Valley Band of Pomo Indians	111,234.00
Sherwood Valley Pomo Indians	111,234.00
Shingle Springs Rancheria	111,234.00
Smith River Rancheria	111,234.00
Stewarts Point Rancheria	111,234.00
Susanville Indian Rancheria	111,234.00
Table Bluff Reservation	111,234.00

Exhibit 1 (Continued)	
Non-Compact Tribes Eligible to Receive a Distribution from the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution	
Non-Compact Indian Tribe	Amount of Funds Recommended to be Distributed
Torrez-Martinez Mission Indians	111,234.00
United Auburn Indian Community	111,234.00
Upper Lake Band of Pomo Indians	111,234.00
Washoe Tribe of Nevada & California	111,234.00
Yurok Tribe of the Yurok Reservation	111,234.00
Total	\$8,342,550.00 ¹

Footnotes:

1. The total amount of distribution to each tribe is subject to audit and verification by the Commission. Future distributions may be adjusted for any overpayments or underpayments that may have been made. If a tribe is subsequently determined to be a "Compact Tribe" by definition of the Compact, and is therefore not eligible for future distributions, any overpayments that may be made are subject to refund by a tribe(s) to the Commission. The above distributions are being recommended for distribution on a conditional basis and are subject to verification of eligibility. Distributions will only be made after receipt of a Tribal-State Compact Gaming Device Certification Form (CGCC-C2002.02) that indicates eligibility in accordance with the terms of the Compact.

EXHIBIT 2

CALIFORNIA GAMBLING CONTROL COMMISSION
0366 - INDIAN GAMING REVENUE SHARING TRUST FUND
FUND CONDITION STATEMENT
For the six months ended December 31, 2002
Cash Basis

BEGINNING BALANCE	\$ 17,546,747.32
REVENUES AND TRANSFERS	
Revenues:	
150300 Income from surplus money investments	295,005.75
216900 License fees held in trust	<u>20,003,770.49</u>
Totals, Revenues	\$ <u>20,298,776.24</u>
Totals, Resources	\$ 20,298,776.24
EXPENDITURES	
Disbursements:	
	<u>28,605,736.51</u>
Totals, Expenditures	\$ <u><u>28,605,736.51</u></u>
FUND BALANCE, prior to distribution	\$ 9,239,787.05
Disbursements, pending distribution	8,342,550.00
Previously approved funds held on behalf of 2 tribes for future issuance pending resolution of tribal leadership	<u>897,236.68</u>
FUND BALANCE, after distribution	\$ <u><u>0.37</u></u>

Exhibit 3**Unaudited Amount of Revenue from Each Compact Tribe Received by the Commission Through December 31, 2002 for the Fiscal Year Ending June 30, 2003**

Compact Tribe	Revenue Received
Agua Caliente Band of Cahuilla Indians	\$274,575.00
Alturas Indian Rancheria	0.00
Augustine Band of Mission Indians	0.00
Barona Band of Mission Indians	138,068.13
Bear River Band of the Rohnerville Rancheria	0.00
Berry Creek Rancheria	0.00
Big Sandy Rancheria	0.00
Big Valley Rancheria	0.00
Blue Lake Rancheria	0.00
Buena Vista Rancheria	0.00
Cabazon Band of Mission Indians	820,000.00
Cahto Indian Tribe of the Laytonville Rancheria	0.00
Cahuilla Band of Mission Indians	0.00
Campo Band of Diegueno Mission Indians	0.00
Chemehuevi Indian Tribe	0.00
Cher-Ae Heights Indian Community	0.00
Chicken Ranch Rancheria	0.00
Colusa Rancheria	312,500.00
Cuyapaipe Band of Mission Indians	347,779.40
Dry Creek Rancheria	1,609,496.58
Elem Indian Colony	0.00
Elk Valley Rancheria	0.00
Hoopla Valley Tribe	0.00
Hopland Band of Pomo Indians	593,750.00
Jackson Rancheria	718,750.00
Jamul Indian Village	0.00
La Jolla Band of Luiseno Indians	0.00
Manchester Point Arena Rancheria	0.00
Manzanita Band of Mission Indians	0.00
Middletown Rancheria	0.00
Mooretown Rancheria	0.00
Morongo Band of Mission Indians	0.00
Paiute Bishop Tribe	0.00
Pala Band of Mission Indians	3,846,909.25
Paskenta Band of Nomlaki Indians	31,250.00
Pauma/Yuima Band of Mission Indians	0.00
Pechanga Band of Mission Indians	0.00

Exhibit 3 (Continued)	
Unaudited Amount of Revenue from Each Compact Tribe Received by the Commission Through December 31, 2002 for the Fiscal Year Ending June 30, 2003	
Compact Tribe	Revenue Received
Picayune Rancheria	1,671,469.18
Pit River Tribe	0.00
Quechan Indian Nation	0.00
Redding Rancheria	0.00
Resighini Rancheria	0.00
Rincon Band of Mission Indians	0.00
Robinson Rancheria	275,000.00
Rumsey Rancheria	820,000.00
San Manuel Band of Mission Indians	1,076,197.81
San Pasqual Band of Diegueno Indians	646,171.23
Santa Rosa Indian Community	2,232,876.51
Santa Ynez Band	328,875.00
Sherwood Valley Rancheria	0.00
Shingle Springs Rancheria	812,500.00
Smith River Rancheria	0.00
Soboba Band of Mission Indians	218,593.09
Susanville Indian Rancheria	0.00
Sycuan Band of Mission Indians	494,218.04
Table Mountain Rancheria	0.00
Tule River Reservation	937,500.00
Tuolumne Rancheria	0.00
Twenty-Nine Palms Band of Mission Indians	664,791.27
United Auburn Indian Community	1,132,500.00
Viejas Band of Mission Indians	0.00
Total	\$20,003,770.49 ¹

Footnotes:

1. See Exhibit 2 for a copy of a trust fund condition statement for the Fund for the quarter ended December 31, 2002, which is the most recent quarter-end for which a distribution has been recommended for payment. Included in the total receipts available for distribution is interest of \$295,005.75.



Exhibit 4

John E. Hensley, Chairman
Michael C. Palmer
J.K. Sasaki
Arlo E. Smith

STATE OF CALIFORNIA
GAMBLING CONTROL COMMISSION

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Sacramento, CA 95833-4231

P.O. Box 526013
Sacramento, CA 95852-6013

(916) 263-0700
(916) 263-0499 FAX

January 3, 2003

Re: Change in Eligibility Certification Procedures for Revenue Sharing Trust Fund Distributions

Dear:

Pursuant to Compact section 4.3.2(a)(ii), the California Gambling Control Commission ("Commission") as trustee designated to administer the Revenue Sharing Trust Fund ("Fund") is responsible for distributing Fund revenues to eligible "Non-Compact Tribes" that are beneficiaries of the Fund. In order to determine the Tribes that are eligible to receive distributions from the Fund, the Commission previously has been requiring Tribes to complete and return Tribal-State Compact Gaming Device Certification Forms to the Commission before sending the Tribe's a distribution check.

Commencing with the distribution for the quarter ending December 31, 2002, the Commission is implementing a new procedure for determining eligibility of Tribes for distributions from the Fund. Following is a description of the new procedure:

Tribes with No Compact and No Authorized Gaming Device Gaming Activity – Unless requested by the Commission, the Commission will not require these Tribes to submit the Gaming Device Certification Forms for the purpose of verifying eligibility to receive distributions.

Tribes with a Compact and that have Operated 350 or More Gaming Devices - The Commission will not require these Tribes to submit the Gaming Device Certification Forms, since the Tribes that entered into Compacts with the State and currently operate 350 or more Gaming Devices are not eligible to receive distribution per Compact provisions. In the event that a Tribe reduces the number of Gaming Devices operated to 349 or fewer and, thus, becomes eligible to receive distributions, the Tribe must inform the Commission and submit Gaming Device Certification Forms in order to become eligible for future quarterly distributions.

Exhibit 4

Tribes with a Compact and Operating Fewer Than 350 Gaming Devices - The Commission will continue to require these Tribes to submit the completed Gaming Device Certification Forms. This includes those Tribes that entered into Compacts with the State but are not operating any Gaming Devices. The Commission will send the required form to these prior quarter distribution recipient Tribes each quarter.

In summary, only those Compact Tribes operating fewer than 350 Gaming Devices during a quarter must continue to complete the Gaming Device Certification Form in order to receive their portion of distributions from the Fund.

Enclosed is a copy of the Gaming Device Certification Form for the quarter ending December 31, 2002. If your Tribe is still required to file the form with the Commission, please complete the enclosed form as soon as possible and return it to the Commission at the address shown above. The Commission appreciates your cooperation. The form is also available for download from the Commission's website at www.cgcc.ca.gov under the "Forms" link.

This change in practice is part of the Commission's on-going effort to streamline administration of the Fund and to timely disburse funds to eligible tribes. If you have any questions concerning this new policy, please contact me at (916) 263-4600 or at the Commission's address provided above.

Sincerely,

Gary Qualset, Deputy Director
Licensing and Compliance Division

Enclosure

CALIFORNIA GAMBLING CONTROL COMMISSION

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Tribal-State Compact Gaming Device Certification Form

Section 1 – General Information

Name of Tribe _____

Mailing Address _____

City, State, Zip Code _____

Section 2 – Quarterly Gaming Device Information

Enter the maximum number of gaming devices operated during the quarterly period listed below. The amount entered should be the highest number of gaming devices operated on any given day during the quarterly period.

Quarterly Period	Maximum Number of Gaming Devices Operated
October 1, 2002 – December 31, 2002	_____

Section 3 – Certification

Certification Statement: The information reported above is, to the best of my knowledge and belief, true, correct, and complete.

Signature _____ Title _____ Date _____

Printed Name _____