

**CALIFORNIA GAMBLING CONTROL COMMISSION**

Physical Address: 300 Capitol Mall, Suite 300 • Sacramento, CA 95814-4338

Mailing Address: P.O. Box 526013 • Sacramento, CA 95852-6013

Phone: (916) 322-3095 • FAX: (916) 322-5441



DATE: November 21, 2002

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 September 30, 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 September 30, 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 gaming device license fees paid by Tribes that acquire and maintain gaming device licenses. 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 \$55.6 million from the IGRSTF covering eight fiscal quarters from July 1, 2000 through June 30, 2002. Distributions from the IGRSTF were brought current last quarter 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 September 30, 2002, leaving a balance in the IGRSTF of less than \$1.00.

As shown in Exhibit 1, the majority of tribes will be receiving a distribution of \$159,393.98, but as reported previously it is important to note that for two tribes the amounts being recommended for distribution is less due to the differences of quarters that the two tribes were eligible for distribution and the amount of money that was in the IGRSTF for the first quarter. Those two tribes received overpayments in the first two partial distributions that were made. As noted in previous reports, distributions were adjusted for those overpayments and the overpayments are subject to refund by the tribes to the Commission. With offset of the current distribution, the two tribes will have paid back all amounts owed to the IGRSTF and are entitled to a partial distribution of \$26,988.01 this quarter. They will be entitled to full distributions in the future provided they remain eligible.

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 for the quarter by each eligible tribe. A distribution will only be made after receipt of certification and eligibility is determined.

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 tribe 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-C2000.04).
- 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-compacted 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.
- 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 as of September 30, 2002, 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-C2000.04).

**RECOMMENDATION:** *It is recommended that the Commission approve the current full quarterly distribution of approximately \$11.69 million of all gaming device license fee payments and interest income received by the IGRSTF during the most recent quarter ended September 30, 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**

<b>Non-Compact Indian Tribe</b>	<b>Amount of Funds Recommended to be Distributed</b>
Alturas Indian Rancheria	\$159,393.98
Augustine Band of Mission Indians	159,393.98
Bear River Band of the Rohnerville Rancheria	159,393.98
Benton Paiute Reservation	159,393.98
Big Lagoon Rancheria	159,393.98
Big Pine Reservation	159,393.98
Big Sandy Rancheria	159,393.98
Blue Lake Rancheria	159,393.98
Bridgeport Paiute Indian Colony	159,393.98
Buena Vista Rancheria	159,393.98
Cahto Indian Tribe of the Laytonville Rancheria	159,393.98
Cahuilla Band of Mission Indians	159,393.98
California Valley Miwok Tribe	159,393.98
Cedarville Rancheria	159,393.98
Chemehuevi Indian Tribe	159,393.98
Cher-Ae Heights Indian Community	159,393.98
Chicken Ranch Rancheria	159,393.98
Cloverdale Rancheria	159,393.98
Cold Springs Rancheria	159,393.98
Colorado River Indian Tribes	159,393.98
Cortina Rancheria	159,393.98
Cuyapaipe Community of Mission Indians	159,393.98
Death Valley Timbi-Sha Shoshone Tribe	159,393.98
Dry Creek Rancheria	159,393.98
Elem Indian Colony	159,393.98
Elk Valley Rancheria	159,393.98
Enterprise Rancheria	159,393.98
Fort Bidwell Indian Community	159,393.98
Fort Independence Reservation	159,393.98
Fort Mojave Indian Tribe	159,393.98
Graton Rancheria	26,988.01
Greenville Rancheria	159,393.98
Grindstone Rancheria	159,393.98
Guidiville Rancheria	159,393.98
Hoopa Valley Tribe	159,393.98

**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**

<b>Non-Compact Indian Tribe</b>	<b>Amount of Funds Recommended to be Distributed</b>
Inaja-Cosmit Mission Indians	159,393.98
Ione Band of Miwok Indians	159,393.98
Jamul Indian Village	159,393.98
Karuk Tribe of California	159,393.98
La Jolla Band of Mission Indians	159,393.98
La Posta Band of Mission Indians	159,393.98
Lone Pine Reservation	159,393.98
Los Coyotes Band of Cahuilla Indians	159,393.98
Lower Lake Rancheria	26,988.01
Lytton Rancheria	159,393.98
Manchester Point Arena Rancheria	159,393.98
Manzanita Mission Indians	159,393.98
Mechoopda Indian Tribe	159,393.98
Mesa Grande Mission Indians	159,393.98
Northfork Rancheria	159,393.98
Paiute Bishop Community	159,393.98
Picayune Rancheria	159,393.98
Pinoleville Reservation	159,393.98
Pit River Tribe	159,393.98
Potter Valley Rancheria	159,393.98
Quartz Valley Indian Community	159,393.98
Quechan Tribe of Fort Yuma	159,393.98
Ramona Mission Indians	159,393.98
Redwood Valley Rancheria	159,393.98
Resighini Rancheria	159,393.98
Round Valley Indian Tribe	159,393.98
Santa Rosa Band of Cahuilla Mission Indians	159,393.98
Santa Ysabel Mission Indians	159,393.98
Scotts Valley Band of Pomo Indians	159,393.98
Sherwood Valley Pomo Indians	159,393.98
Shingle Springs Rancheria	159,393.98
Smith River Rancheria	159,393.98
Stewarts Point Rancheria	159,393.98
Susanville Indian Rancheria	159,393.98
Table Bluff Reservation	159,393.98

<b>Exhibit 1 (Continued)</b>	
<b>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</b>	
<b>Non-Compact Indian Tribe</b>	<b>Amount of Funds Recommended to be Distributed</b>
Torrez-Martinez Mission Indians	159,393.98
United Auburn Indian Community	159,393.98
Upper Lake Band of Pomo Indians	159,393.98
Washoe Tribe of Nevada & California	159,393.98
Yurok Tribe of the Yurok Reservation	159,393.98
<b>Total</b>	<b>\$11,689,736.56 <sup>1</sup></b>

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-C2000.04) 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 quarter ended September 30, 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>11,660,129.85</u>
Totals, Revenues	\$ <u>11,955,135.60</u>
Totals, Resources	\$ 29,501,882.92
EXPENDITURES	
Disbursements:	
	<u>15,097,287.91</u>
Totals, Expenditures	\$ <u>15,097,287.91</u>
FUND BALANCE	\$ 14,404,595.01

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

<b>Compact Tribe</b>	<b>Revenue Received</b>
Agua Caliente Band of Cahuilla Indians	\$0.00
Alturas Indian Rancheria	0.00
Augustine Band of Mission Indians	0.00
Barona Band of Mission Indians	0.00
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	0.00
Dry Creek Rancheria	1,275,746.58
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
Morongu Band of Mission Indians	0.00
Paiute Bishop Tribe	0.00
Pala Band of Mission Indians	768,750.00
Paskenta Band of Nomlaki Indians	31,250.00
Pauma/Yuima Band of Mission Indians	0.00
Pechanga Band of Mission Indians	0.00

<b>Exhibit 3 (Continued)</b>	
<b>Unaudited Amount of Revenue from Each Compact Tribe Received by the Commission through September 30, 2002 for the Fiscal Year Ending June 30, 2003</b>	
<b>Compact Tribe</b>	<b>Revenue Received</b>
Picayune Rancheria	250,000.00
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	627,097.81
San Pasqual Band of Diegueno Indians	361,171.14
Santa Rosa Indian Community	1,272,150.00
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	2,423.05
Susanville Indian Rancheria	0.00
Sycuan Band of Mission Indians	0.00
Table Mountain Rancheria	0.00
Tule River Reservation	937,500.00
Tuolumne Rancheria	0.00
Twenty-Nine Palms Band of Mission Indians	320,166.27
United Auburn Indian Community	1,132,500.00
Viejas Band of Mission Indians	0.00
<b>Total</b>	<b>\$11,660,129.85<sup>1</sup></b>

Footnotes:

1. See Exhibit 2 for a copy of a trust fund condition statement for the Fund for the quarter ended September 30, 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.