

CALIFORNIA GAMBLING CONTROL COMMISSION

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DATE: July 24, 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 June 30, 2003

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 June 30, 2003?*

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 \$79.4 million from the IGRSTF covering eleven fiscal quarters from July 1, 2000 through March 31, 2003. The current distribution that is being proposed will make a distribution of the actual amounts in the IGRSTF for the quarter ended June 30, 2003, leaving an undistributed balance in the IGRSTF as of that date of less than \$1.00.

As shown in Exhibit 1, all eligible tribes will be receiving \$95,172.06 for this distribution. Tribal license fees and payments received and deposited into the IGRSTF for the quarter ended June 30, 2003 amounted to approximately \$6.75 million. Seventy-one tribes are listed in Exhibit 1 as eligible Non-Compact recipient tribes (pending receipt of outstanding eligibility certification forms, if any). Thus, the equal share distribution amount per tribe for this quarter is as noted above.

At the end of the calendar quarter for distribution and as of the close of business on June 30, 2003, the amount of outstanding license fee payments due into the IGRSTF was approximately \$4,264,000. If the total license fee payments due at the end of this quarter had been paid into the IGRSTF, recipient tribes would have received \$60,058.73 in additional moneys along with this quarter's distribution. The Commission makes quarterly distributions on a cash basis based on the amount of available funds in the IGRSTF each quarter. Total license fee payments outstanding and due for the quarter ended June 30, 2003 are summarized in the table on the following page:

Table 1		
Indian Gaming Revenue Sharing Trust Fund License Fee Payment Aging Schedule as of June 30, 2003		
Quarters in Arrears	Number of Tribes	Amount of License Fees Due
1 or less	7	\$2,413,861.92
2	1	1,169,925.00
More than 2	1	680,383.11
Totals	9	\$4,264,170.03

Compact Section 4.3.2.3 provides that a tribe shall not conduct any gaming activity authorized by the Compact if the tribe is more than two quarterly contributions in arrears in its license fee payments into the IGRSTF. The Commission, as trustee, sends out regular quarterly invoices for the payment of license fees prior to the beginning of each quarter. Additionally, the Commission follows standard collection practices, which includes noticing those of past due amounts, and has initiating procedures if action is needed under the provisions of Compact Section 4.3.2.3 noted above.

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.

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-C2002.04). Receive this form from each eligible tribe in accordance with the streamlined verification procedure implemented by the Commission. This form was mailed to Tribes for completion and filing and is also available on the Commission's website at www.cgcc.ca.gov.
- 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 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 June 30, 2003, 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-C2002.04) if required.

RECOMMENDATION: *It is recommended that the Commission approve the current full quarterly distribution of approximately \$6.75 million of all payments made by tribes and any interest income received by the IGRSTF during the most recent quarter ended June 30, 2003, 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	\$95,172.06
Bear River Band of the Rohnerville Rancheria	95,172.06
Benton Paiute Reservation	95,172.06
Big Lagoon Rancheria	95,172.06
Big Pine Reservation	95,172.06
Big Sandy Rancheria	95,172.06
Blue Lake Rancheria	95,172.06
Bridgeport Paiute Indian Colony	95,172.06
Buena Vista Rancheria	95,172.06
Cahto Indian Tribe of the Laytonville Rancheria	95,172.06
Cahuilla Band of Mission Indians	95,172.06
California Valley Miwok Tribe	95,172.06
Cedarville Rancheria	95,172.06
Chemehuevi Indian Tribe	95,172.06
Cher-Ae Heights Indian Community	95,172.06
Chicken Ranch Rancheria	95,172.06
Cloverdale Rancheria	95,172.06
Cold Springs Rancheria	95,172.06
Colorado River Indian Tribes	95,172.06
Cortina Rancheria	95,172.06
Cuyapaipe Community of Mission Indians	95,172.06
Death Valley Timbi-Sha Shoshone Tribe	95,172.06
Elem Indian Colony	95,172.06
Elk Valley Rancheria	95,172.06
Enterprise Rancheria	95,172.06
Fort Bidwell Indian Community	95,172.06
Fort Independence Reservation	95,172.06
Fort Mojave Indian Tribe	95,172.06
Graton Rancheria	95,172.06
Greenville Rancheria	95,172.06
Grindstone Rancheria	95,172.06
Guidiville Rancheria	95,172.06
Hoopa Valley Tribe	95,172.06

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	95,172.06
lone Band of Miwok Indians	95,172.06
Jamul Indian Village	95,172.06
Karuk Tribe of California	95,172.06
La Jolla Band of Mission Indians	95,172.06
La Posta Band of Mission Indians	95,172.06
Lone Pine Reservation	95,172.06
Los Coyotes Band of Cahuilla Indians	95,172.06
Lower Lake Rancheria	95,172.06
Lytton Rancheria	95,172.06
Manchester Point Arena Rancheria	95,172.06
Manzanita Mission Indians	95,172.06
Mechoopda Indian Tribe	95,172.06
Mesa Grande Mission Indians	95,172.06
Northfork Rancheria	95,172.06
Paiute Bishop Community	95,172.06
Pinoleville Reservation	95,172.06
Pit River Tribe	95,172.06
Potter Valley Rancheria	95,172.06
Quartz Valley Indian Community	95,172.06
Quechan Tribe of Fort Yuma	95,172.06
Ramona Mission Indians	95,172.06
Redwood Valley Rancheria	95,172.06
Resighini Rancheria	95,172.06
Round Valley Indian Tribe	95,172.06
Santa Rosa Band of Cahuilla Mission Indians	95,172.06
Santa Ysabel Mission Indians	95,172.06
Scotts Valley Band of Pomo Indians	95,172.06
Sherwood Valley Pomo Indians	95,172.06
Shingle Springs Rancheria	95,172.06
Smith River Rancheria	95,172.06
Stewarts Point Rancheria	95,172.06
Susanville Indian Rancheria	95,172.06
Table Bluff Reservation	95,172.06

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	95,172.06
Upper Lake Band of Pomo Indians	95,172.06
Washoe Tribe of Nevada & California	95,172.06
Yurok Tribe of the Yurok Reservation	95,172.06
Total	\$6,757,216.26¹

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-C2002.04) 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 year ended June 30, 2003
Cash Basis

BEGINNING BALANCE	\$ 17,546,747.32
REVENUES AND TRANSFERS	
Revenues:	
150300 Income from surplus money investments	514,707.11
216900 License fees held in trust	<u>30,323,222.61</u>
Totals, Revenues	\$ <u>30,837,929.72</u>
Totals, Resources	\$ 48,384,677.04
EXPENDITURES	
Disbursements:	
	<u>40,419,971.49</u>
Totals, Expenditures	\$ <u><u>40,419,971.49</u></u>
FUND BALANCE, prior to distribution	\$ 7,964,705.55
Disbursements, pending distribution	6,757,216.26
Previously approved funds held on behalf of 2 tribes for future issuance pending resolution of tribal leadership	<u>1,207,488.91</u>
FUND BALANCE, after distribution	\$ <u><u>0.38</u></u>

Exhibit 3**Unaudited Amount of Revenue From Each Compact Tribe Received by the Commission Through June 30, 2003 for the Fiscal Year Ended June 30, 2003**

Compact Tribe	Revenue Received Year to Date	Revenue Received Inception to Date
Agua Caliente Band of Cahuilla Indians	\$549,150.00	\$2,637,556.25
Alturas Indian Rancheria	0.00	0.00
Augustine Band of Mission Indians	0.00	437,500.00
Barona Band of Mission Indians	506,243.13	2,117,762.77
Bear River Band of the Rohnerville Rancheria	0.00	0.00
Berry Creek Rancheria	0.00	437,500.00
Big Sandy Rancheria	0.00	250,000.00
Big Valley Rancheria	0.00	500,000.00
Blue Lake Rancheria	0.00	0.00
Buena Vista Rancheria	0.00	1,812,500.00
Cabazon Band of Mission Indians	820,000.00	1,595,775.00
Cahto Indian Tribe of the Laytonville Rancheria	0.00	0.00
Cahuilla Band of Mission Indians	0.00	125,000.00
Campo Band of Diegueno Mission Indians	0.00	500,000.00
Chemehuevi Indian Tribe	0.00	75,000.00
Cher-Ae Heights Indian Community	0.00	0.00
Chicken Ranch Rancheria	0.00	0.00
Colusa Rancheria	312,500.00	312,500.00
Cuyapaipe Band of Mission Indians	509,372.03	1,759,372.03
Dry Creek Rancheria	2,610,746.58	4,173,246.58
Elem Indian Colony	0.00	0.00
Elk Valley Rancheria	0.00	0.00
Hoopla Valley Tribe	0.00	0.00
Hopland Band of Pomo Indians	593,750.00	1,156,250.00
Jackson Rancheria	718,750.00	1,331,250.00
Jamul Indian Village	0.00	0.00
La Jolla Band of Luiseno Indians	0.00	0.00
Manchester Point Arena Rancheria	0.00	0.00
Manzanita Band of Mission Indians	0.00	0.00
Middletown Rancheria	0.00	187,500.00
Mooretown Rancheria	0.00	625,000.00
Morongo Band of Mission Indians	0.00	497,300.00
Paiute Bishop Tribe	0.00	0.00
Pala Band of Mission Indians	6,153,159.25	9,612,534.25
Paskenta Band of Nomlaki Indians	31,250.00	406,250.00
Pauma/Yuima Band of Mission Indians	0.00	625,000.00
Pechanga Band of Mission Indians	58,105.62	891,855.62

Exhibit 3 (Continued)**Unaudited Amount of Revenue From Each Compact Tribe Received by the Commission Through June 30, 2003 for the Fiscal Year Ended June 30, 2003**

Compact Tribe	Revenue Received Year to Date	Revenue Received Inception to Date
Picayune Rancheria	2,773,969.18	4,336,469.18
Pit River Tribe	0.00	0.00
Quechan Indian Nation	0.00	0.00
Redding Rancheria	0.00	437,500.00
Resighini Rancheria	0.00	0.00
Rincon Band of Mission Indians	0.00	5,090,625.00
Robinson Rancheria	275,000.00	275,000.00
Rumsey Rancheria	820,000.00	1,682,500.00
San Manuel Band of Mission Indians	1,300,747.81	2,583,247.81
San Pasqual Band of Diegueno Indians	1,501,171.23	3,563,671.23
Santa Rosa Indian Community	3,505,026.51	7,953,551.51
Santa Ynez Band	917,914.04	3,783,414.04
Sherwood Valley Rancheria	0.00	0.00
Shingle Springs Rancheria	812,500.00	812,500.00
Smith River Rancheria	0.00	0.00
Soboba Band of Mission Indians	651,118.09	1,912,368.09
Susanville Indian Rancheria	0.00	0.00
Sycuan Band of Mission Indians	1,079,180.54	6,144,510.21
Table Mountain Rancheria	0.00	4,237,437.50
Tule River Reservation	937,500.00	1,365,000.00
Tuolumne Rancheria	0.00	312,500.00
Twenty-Nine Palms Band of Mission Indians	1,698,666.27	4,309,228.77
United Auburn Indian Community	1,187,402.33	1,999,902.33
Viejas Band of Mission Indians	0.00	2,117,675.00
Total	30,323,222.61	84,983,753.17
Interest	514,707.11	3,300,923.87
Grand Total	\$30,837,929.72 ¹	\$88,284,677.04 ²

Footnotes:

1. See Exhibit 2 for a copy of a trust fund condition statement for the Fund for the year ended June 30, 2003, which is the most recent quarter-end for which a distribution has been recommended for payment.
2. Includes receipts totaling \$2,137,500 that were returned to payor tribes for the return of unused putative gaming device licenses. These licenses were made available for reissuance and were reissued on September 5, 2002.