

July 2007

FEDERALLY RECOGNIZED INDIAN TRIBE	YEAR OF COMPACT	CASINO IN OPERATION	GRANDFATHERED DEVICES <sup>*</sup>	CURRENT NUMBER OF DEVICES <sup>†</sup>	MAXIMUM DEVICES ALLOWED
Pit River Tribal Council	1999 Compact	X	129	156	2,000
Quechan Tribe of the Fort Yuma Reservation	2006 Amendment	X	—	349	1,100
Redding Rancheria	1999 Compact	X	401	951	2,000
Rohnerville Rancheria	1999 Compact	X	—	316	2,000
Rincon San Luiseno Band of Mission Indians	1999 Compact	X	—	1,599	2,000
Robinson Rancheria Band of Pomo Indians	1999 Compact	X	380	595	2,000
Rumsey Band of Wintun Indians	2004 Amendment	X	416	2,589	unlimited
San Manuel Band of Mission Indians	2006 Amendment	X	974	2,000	2,000 <sup>**</sup>
San Pasqual Band of Mission Indians	1999 Compact	X	—	1,261	2,000
Santa Rosa Rancheria Tachi Tribe	1999 Compact	X	472	1,950	2,000
Santa Ynez Band of Chumash Indians	1999 Compact	X	760	1,998	2,000
Santa Ysabel Band of Diegueno Mission Indians	2003 Compact	X	—	349 <sup>††</sup>	350
Sherwood Valley Rancheria Band of Pomo Indians	1999 Compact	X	127	227	2,000
Shingle Springs Band of Miwok Indians	1999 Compact	—	—	—	2,000
Smith River Rancheria	1999 Compact	X	235	262	2,000
Soboba Band of Mission Indians	1999 Compact	X	991	2,000	2,000
Susanville Indian Rancheria	1999 Compact	X	150	221	2,000
Sycuan Band of the Kumeyaay Nation	2006 Amendment	X	519	1,996	2,000 <sup>‡</sup>
Table Mountain Rancheria	1999 Compact	X	835	2,000	2,000
Torres-Martinez Desert Cahuilla Indians	2003 Compact	X	—	350 <sup>‡‡</sup>	2,000
Trinidad Rancheria	1999 Compact	X	196	341	2,000
Tule River Indian Tribe	1999 Compact	X	408	1,384	2,000
Tuolumne Band of Me-wuk Indians	1999 Compact	X	—	1,024	2,000
Twenty-Nine Palms Band of Mission Indians	1999 Compact	X	740	2,000	2,000
Tyme Maidu Tribe, Berry Creek Rancheria	1999 Compact	X	406	900	2,000
United Auburn Indian Community	2004 Amendment	X	—	2,722	unlimited
Viejas Band of Kumeyaay Indians	2004 Amendment	X	1,132	2,197	unlimited
Yurok Tribe	2005 Compact	—	—	—	99 <sup>§§</sup>
<b>Totals</b>	—	<b>57</b>	<b>19,005</b>	<b>59,518</b>	—

\* Grandfathered devices are those the tribe had in operation on September 1, 1999.

† The 1999 compacts limit a tribe to a total of 2,000 devices.

‡ This compact was negotiated in 2006, and was ratified by the Legislature in June 2007. If approved by the federal Secretary of the Interior, the maximum number of devices allowed will increase to 5,000.

§ Opened in January 2007. Since this casino opened in 2007, they were not included in the California Gambling Control Commission's (gambling commission) device count as of March 2006.

|| The numbers indicate that the Pachenga and Morongo tribes are operating more than the 2,000 gaming devices allowed in their compacts. In early 2000 the tribes acquired devices with multiple player stations and counted them as one device. The tribes were requested to cease operation of the terminals that exceeded the number allowed by August 2006. Compliance by the tribes was confirmed by the gambling commission and Department of Justice. However, the gambling commission's most current device count was conducted in March 2006 when the tribes were still operating more than the allowed number of devices.

# This compact was negotiated in 2006 and ratified by the Legislature in June 2007. If approved by the federal Secretary of the Interior, the maximum number of devices allowed will increase to 7,500.

\*\* This compact was negotiated in 2006, and ratified by the Senate in April 2007. If ratified by the Assembly, the maximum number of devices allowed will increase to 7,500.

†† Opened April 2007. Since this casino opened in 2007, devices were not included in the gambling commission's device count of March 2006.

‡‡ Opened in spring 2007. Since this casino opened in 2007, devices were not included in the gambling commission's device count of March 2006.

§§ This compact was negotiated in 2005 and was ratified by the Legislature in June 2007. It is a new compact and if approved by the federal Secretary of the Interior, the maximum number of devices allowed will be 99.

## Appendix B

### GRANT AMOUNTS DISTRIBUTED TO COUNTIES FOR MITIGATION PROJECTS

In fiscal year 2005–06, grants to counties for the support of local governments affected by Indian gaming casinos totaled \$50 million through two distributions. The budget act appropriated \$30 million for this purpose, and Senate Bill 288, Chapter 13, Statutes of 2006 (Senate Bill 288), reappropriated \$20 million removed from the budget by the governor. As shown in Table B, this money was distributed among 25 counties that received anywhere from \$42,000 to \$21.3 million.

**Table B**  
**Fiscal Year 2005–06 Allocations to County Tribal Casino Accounts**

COUNTY	NUMBER OF GRANTS APPROVED	BUDGET ACT	SENATE BILL 288	TOTALS
Amador		\$ 556,224	171,889	\$ 928,121
Butte		1,197,658	800,766	1,998,424
Colusa		764,513	511,161	1,275,674
Del Norte		82,842	60,346	142,188
Fresno		1,595,299	1,066,633	2,661,932
Humboldt		196,696	123,748	320,044
Imperial		47,663	29,886	77,553
Inyo		172,785	115,526	288,311
Kings		643,800	431,451	1,074,251
Lake		788,182	527,087	1,315,169
Lassen		38,856	24,366	63,222
Madera		310,845	204,932	505,777
Mendocino		253,260	169,332	422,592
Modoc		25,904	16,284	42,148
Placer		470,239	294,888	765,127
Riverside		12,762,395	8,493,267	21,295,462
San Bernardino		1,831,991	1,224,888	3,056,879
San Diego		4,989,453	3,335,799	8,325,452
Santa Barbara		1,325,471	890,224	2,211,695
Shasta		475,749	318,091	793,840
Sonoma		276,307	173,273	449,580
Tehama		133,491	83,712	217,203
Tulare		492,318	329,169	821,487
Tuolumne		56,806	37,981	94,787
Yolo		511,253	341,629	853,082
<b>Totals</b>	<b>255</b>	<b>\$30,000,000</b>	<b>\$20,000,000</b>	<b>\$50,000,000</b>

Sources: Fiscal year 2005–06 annual reports submitted by counties and the State Controller's Office.

\* No Indian gaming local community benefit committee established.

*(Agency response provided as text only.)*

California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833-4231

June 29, 2007

Ms. Elaine M. Howle, State Auditor\*  
California State Auditor  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Ms. Howle:

In reference to your letter of June 21, 2007, I have enclosed comments regarding the draft report captioned, "California Indian Gaming Special Distribution Fund: Local Governments Do Not Always Use It to Mitigate the Impacts of Casinos, and Its Viability Will be Adversely Affected by Compact Amendments."

The enclosed comments titled, "California Gambling Control Commission Compliance Division Comments on the BSA Report Titled California Indian Gaming Special Distribution Fund, Review June 26, 2007," are provided in this format as many of the suggested edits relate to factual corrections that you may wish to incorporate by editing the text of the report.

The California Gambling Control Commission (Commission) believes the Bureau of State Audits (BSA) has done a thorough study and research into the local mitigation grant program authorized by statute. The description of the process is the best compilation to date of the funding mechanism and relationship to the grant program. The grant program results are not within the scope of authority of the Commission. Without statutory authority and resources, the Commission is not able to exercise a judgment as to the assessment of the local agencies grant program outcomes.

The Commission appreciated the opportunity to facilitate your staff in this worthwhile effort.

Sincerely,

(Signed by: Steven V. Giorgi)

STEVEN V. GIORGI  
Executive Director

For DEAN SHELTON  
Chairman

Encl.

\* California State Auditor's comments begin on page 63.

**California Gambling Control Commission**  
**Compliance Division Comments on the BSA Report Titled**  
**California Indian Gaming Special Distribution Fund**  
**Review June 28, 2007**

① 1. **Page 3 – First paragraph, next to last sentence insert the following:**

Tribes can operate class III gaming devices after a Tribe and the State have negotiated a Compact, the Compact is ratified by the State Legislature, and the Secretary of the Interior, and the approved Compact is published in the Federal Register. The Compact governs the conduct of the gaming activity.

Delete the last sentence in the first paragraph.

2. **Page 3- Second paragraph. After the first sentence insert the following:**

③ Governor Schwarzenegger's new and amended Compacts require Tribes to make payments to the General Fund, in lieu of the distribution fund.

3. **Page 3 – Second paragraph. Change the third sentence to read:**

In fiscal year 2005-06, 26 of the 66 Tribes with Compacts deposited money into the distribution fund and 39 tribes contributed to the trust fund. [Note: the commission collected a payment from Cache Creek Casino in FY 05/06 that related to an underpayment in FY 04/05. If that payment is excluded, there would be 25 tribes that contributed to the distribution fund for FY 05/06. Also, the 39 tribes paying into the trust fund includes tribes that are amortizing prepayment credits. If the tribes amortizing credits are excluded, there would be 25 tribes making payment to the trust fund].

4. **Page 3 – Second to the last sentence**

④ A better definition of "Gross Revenues" taken from the AICPA Audit and Accounting Guide, Casinos, is:

*Gross gaming revenues is the net win from gaming activities, which is the difference between gaming wins and losses before deducting costs and expenses.*

Reason - The definition in the BSA report is not found in the AICPA guide and the compact requires the use of the AICPA definition of net win.

5. **Page 3 – Last sentence**

Change the wording to:

⑤ *Deposits into the trust fund are based on the number of class III gaming device licenses each tribe has acquired since the negotiation of the 1999 compacts.*

Reason – Deposits are not based upon the number of gaming devices a tribe has put into operation. It is based on the number of gaming device licenses acquired over 350.

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Compliance Division Comments on the BSA Report Titled  
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**6. Page 4 – See Text Box (Allowed Uses for the Funds Administered by the Gambling Commission).**

Change the second sentence under the bullet under "Trust Fund" to read:

Each nongaming tribe shall receive \$1.1 million per year. (5)

(There is not a "guarantee of at least \$1.1 million" per year.)

**7. Page 5 – Last paragraph.**

Replace the first sentence with the following:

Since the original Compacts were ratified in 1999, the Legislature has ratified five new Compacts and eight amended Compacts with various terms or requirements different from those in the original Compacts.

Also make similar correction on Page 33 and everywhere else this information appears. (5)

Please note that the Legislature does not "amend" Compacts – they ratify amended Compacts. While various terms and requirements in the new and amended Compacts are different from the 1999 Compacts, some of the provisions have been retained.)

**8. Page 6 – First Sentence.**

Revise the following to the first sentence (see underlined/deleted text) and add new sentences:

However, although the post-1999 Compacts bypass the distribution fund when negotiating for mitigation projects, some counties with tribal casinos with amended Compacts where these casinos are located continue to receive money from the distribution fund. Specifically, existing law allows these counties to continue to receive funding for mitigation projects. Legislation would be necessary to change the allocation methodology to restrict these counties from receiving future annual allocations for mitigation projects. (5)

**9. Page 8 – First Paragraph.**

(Inyo County submitted their FY 2005-06 mandated report to the Commission (report dated April 26, 2007). Please contact us if you need a copy. (6)

**10. Page 8 – Second Paragraph, Fourth Sentence.**

Revise the sentence as follows (see underlined/deleted text):

**California Gambling Control Commission**  
**Compliance Division Comments on the BSA Report Titled**  
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- ⑤ The pending Compacts will change the method of calculating contributions to the ~~distribution fund~~ and trust fund and require tribes to begin contributing to the State's General Fund instead of the distribution fund.

**11. Page 9 – Top of Page**

The report states that "Despite the significant decrease in contributions to the distribution fund, pending legislation may require its continued use to pay for any shortfall in the trust fund..."

- ⑦ This is inaccurate, as existing law and the 1999 Compacts authorize the distribution fund to be used for shortfalls in payments to the trust fund. If BSA is referring to SB 62 (Florez) as the "pending legislation", this bill provides that if there are insufficient funds in the distribution fund to fully fund payments to eligible recipient tribes from the trust fund, money from payments made by Compact Tribes to the General Fund shall be transferred to the trust fund to address the deficiency.

It is important to note that four of the Governor's pending amended Compacts with Morongo, Sycuan, San Manuel, and Pechanga all include Compact provisions to provide a mechanism to allow the State Gaming Agency (Commission) to redirect a portion of the "flat fee" payments made by these Tribes to cover any shortfalls in the trust fund to ensure that the trust fund has sufficient resources to make payments to eligible Tribes.

- ⑦ Please make conforming changes in the discussion related to the distribution fund and trust fund on Page 48 and 56 to reflect the provisions in the Governor's four pending amended Compacts.

**12. Page 11 – Line 2, first paragraph**

- ⑤ Operate more than 58,000 Class III electronic gaming devices such as... [There are more than 58,000 gaming devices, 58,000 relates to Class III.]

**13. Page 11 - Last sentence**

Change wording to:

- ⑤ "...distributions to tribes that do not have compacts or operate fewer than 350 gaming devices..."

Reason - The money is paid to tribes operating fewer than 350 gaming devices as defined in compact section 4.3.2(a)(i), not those operating 350 or fewer gaming devices.

**14. Page 12, Line 3, first paragraph**

- ② "As one court stated,..." Which court? It is an unattributed quote.

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**15. Page 13, Line 4, first paragraph**

"... includes high-stakes casino-type games..." Is this a direct quote from a court case or a paraphrase which is not cited? (2)

**16. Page 13, Line 1, second paragraph**

In approving the compact, the federal government permits states and Indian tribes to develop joint regulatory schemes through the compacting process. (5)

In approving the compact the federal government does not cede its regulatory authority. However, the CRIT decision has limited that authority with regard to Class III gaming, by holding that the NIGC has no statutory authority to promulgate or enforce regulations governing minimum internal control standards.

**17. Page 14 – Under heading TRIBAL-STATE GAMING COMPACTS IN CALIFORNIA, third sentence**

The sentence states that the State entered into 61 compacts with 60 tribes. That would mean one tribe has two compacts. This probably results from BSA counting Viejas and Barona as one tribe (Capitan Grande Band of Diegueno Mission Indians). BSA should consider providing an explanation if the language is kept this way. (5)

**18. Table 1 – Summary of Revenue Provisions for Ratified and Pending Tribal State Gaming Compacts**

Is the "2004 Compact" (column 4) intended to cover the new 2004 Compacts? (2)

The "Pending 2005 Compact" (column 6) was negotiated again in 2006. Accordingly, Yurok is a new 2006 Compact.

The Table appears to leave out several of the pending new and amended Compacts (Big Lagoon, Los Coyotes, Quechan, Lytton). If BSA intends to only cover certain Compacts, it would be clearer to list the names of the Compacts in the Table. (8)

For the "2004 Amendment" (column 4) - Contributions to the Revenue Sharing Trust Fund

The RSTF payments under "2004 Amendment" are not based on a per-device fee or a flat fee based on the year of operation. The 2004 amended Compacts pay a flat fee into the RSTF. (9)

Footnote 1 should be clarified. The payments footnoted in the Table 1 to the General Fund under "2004 Amendment" are annual transportation bond payments. These payments are made by five Tribes (Pala, Pauma, Rumsey, United Auburn and Viejas) and total \$100.8 million per year. (5)

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Contributions to the General Fund

- ② "Net Wins" – this should read "net win"

**19. Page 15 - Insert**

Reference number 2. It states that "Entitlement gaming devices, which according to the compacts are...."

- ⑤ The 1999 compacts do not use or define the word "entitlements". The word "entitlements" is a naming convention used by the CGCC to refer both to compact section 4.3.1(a) and (b) gaming devices. BSA may want to consider striking the words "...according to the compacts..."

**20. Page 15 – First paragraph, last sentence**

Change wording to:

- ⑤ "...distributions to tribes that do not have compacts or operate fewer than 350 gaming devices..."

Reason - The money is paid to tribes operating fewer than 350 gaming devices as defined in compact section 4.3.2(a)(i), not those operating 350 or fewer gaming devices.

**21. Page 15 – Last full paragraph, first sentence**

- ⑩ The sentence states there are 108 federally recognized tribes. However, page 14 states there are 106 federally recognized tribes. Inconsistent numbers. [Note: the commission uses 107 as the number of federally recognized tribes. The BSA in their audit report of the trust fund used 106]

**22. Page 15 – second paragraph**

- ⑪ Correct the number of Tribes and Tribal casinos. There are 55 Tribes that operate a total of 56 Tribal casinos. This does not include the La Jolla Slot Arcade operated by the La Jolla Band of Mission Indians. This casino last operated in August of 2004 (operated seasonally). Also not included are Santa Ysabel and Torrez-Martinez. Those tribes opened casinos in April 2007.

**23. Page 16 – first paragraph**

- ⑤ Second sentence - Change the word "board" to commission.

**24. Page 16, first paragraph, second to the last sentence**

- ⑤ Suggest a wording change from "new-device license fees" to "gaming device license prepayment fees".



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Reason – The current wording makes it sound as though there is a license fees on new-devices, which is not the case.

**25. Page 16, first sentence**

Clarify language related to audits. Some suggested language:

"The gambling commission's regulatory authority includes auditing the books and records related to the class III gaming operation of the Indian casino that pay into the distribution fund and general fund to ensure...." (5)

Reason – To clarify the limited scope of the audit of books and records and the funds to which the audits pertain.

**26. Page 16, second sentence**

A better definition of "Gross Revenues" taken from the AICPA Audit and Accounting Guide, *Casinos*, is: (4)

*Gross gaming revenues is the net win from gaming activities, which is the difference between gaming wins and losses before deducting costs and expenses.*

Reason - The definition in the BSA report is not found in the AICPA guide and the compact requires the use of the AICPA definition of net win.

**27. Page 17, second sentence**

A better definition of "Gross Revenues" taken from the AICPA Audit and Accounting Guide, *Casinos*, is: (4)

*Gross gaming revenues is the net win from gaming activities, which is the difference between gaming wins and losses before deducting costs and expenses.*

Reason - The definition in the BSA report is not found in the AICPA guide and the compact requires the use of the AICPA definition of net win.

**28. Table 2, following page 17**

September 1999 should be September 1, 1999 to be consistent with the compact. September 1, 1999 is an important date to the distribution fund. (5)

**California Gambling Control Commission  
Compliance Division Comments on the BSA Report Titled  
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**29. Page 18, bottom paragraph, fifth sentence**

Change wording to:

- ⑤ "... distributions to tribes that do not have compacts or operate fewer than 350 gaming devices..."

Reason - The money is paid to tribes operating fewer than 350 gaming devices as defined in compact section 4.3.2(a)(i), not those operating 350 or fewer gaming devices.

**30. Figure 2, following page 20**

- ⑤ September 1999 should be September 1, 1999 to be consistent with the compact. September 1, 1999 is an important date to the distribution fund.

**31. Figure 2, following page 20**

- ⑤ First block under 5%, (those with fewer than 200....) should be fewer than 201 per 1999 compact section 5.1(a).

**32. Page 33, first sentence, last paragraph**

- ② The sentence states that the State entered into 61 compacts with 60 tribes. That would mean one tribe has two compacts. This probably results from BSA counting Viejas and Barona as one tribe (Capitan Grande Band of Diegueno Mission Indians). BSA should consider providing an explanation if the language is kept this way.

**33. Page 54, paragraph 2, second from last line**

- ⑤ "... by the federal Bureau of Indian Affairs..." The Secretary of the Interior must approve compacts.

**34. Page 55, paragraph 1, line 5**

- ⑫ Page 55, paragraph 1, line 5 and the footnote at the bottom of the page has no attribution in Appendix A in the copy provided to CGCC.

## Comments

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CALIFORNIA GAMBLING CONTROL COMMISSION

To provide clarity and perspective, we are commenting on the California Gambling Control Commission's (gambling commission) response to our audit report. The numbers below correspond to the numbers we have placed in the margins of gambling commission's response.

Given the nature of the comments provided by the gambling commission, we are disappointed that it chose not to work with us regarding any concerns it has over technical details and with the specific wording used in the report. As is our policy, we asked executive management staff at the gambling commission to contact staff if they had any concerns about the report. However, despite having seven business days to respond, staff from the gambling commission made no attempt to contact us. Had they elected to do so, many of the issues discussed in the gambling commission's response could have been quickly resolved to the satisfaction of both parties. Also, while preparing our draft audit report for publication, page numbers shifted. Therefore, the page numbers that the gambling commission cites throughout its response do not correspond to the page numbers in our final report.

①

The gambling commission suggested that we add language to the report to provide more technical details about certain aspects of Indian gaming. Although we made some of the suggested changes, many comments were too technical in nature and did not affect the accuracy of the report.

②

Relevant information regarding deposits into the distribution and trust funds is described in detail in the Introduction and Chapter 2 of the report. As discussed with the gambling commission at our June 19, 2007 exit conference, the Summary section of the report is not intended to describe each issue in full detail. We appreciate the commission's dedication to technical accuracy, but believe our language adequately summarizes the salient points for the interested reader.

③

We appreciate the gambling commission's suggestion, but without a detailed explanation of the costs and expenses relevant to the calculation of this figure, which are limited and very technical in nature, we believe that the language used is more appropriate.

④

- ⑤ We agree with the gambling commission's suggested change and have modified the text.
- ⑥ Subsequent to sending the draft report to the gambling commission we received the report from another source and updated our report.
- ⑦ We disagree with the gambling commission's assertion that our statement is inaccurate. As the commission states in its response, Senate Bill 62 would require that payments made to the State's General Fund be transferred to the Revenue Sharing Trust Fund (trust fund) if there are insufficient funds in the Indian Gaming Special Distribution Fund (distribution fund). The provision in the new amendments described in the gambling commission's response states that if there is an insufficient balance in the trust fund, a portion of the payments into the General Fund may be redirected. Our concern is which fund will be used first, the distribution fund or the General Fund, to ensure the trust fund is adequately funded; and our report discusses the ramifications of continuing to use the distribution fund as the first source of funding to pay for any shortfall in the trust fund. As stated on page 46 of the report, if the General Fund does pay for the shortfall in the trust fund, the distribution fund will be adequately funded for approximately 20 years. Conversely, if the distribution fund pays for the shortfall in the trust fund, it will be exhausted in approximately four years.
- ⑧ The compacts listed by the gambling commission in its response have not been ratified by the Legislature. Further, the gambling commission previously indicated to us that it did not believe that these compacts would be considered in the near future. However, because the commission finds our terminology confusing, we have re-labeled the table to identify compacts ratified by the Legislature in 2007.
- ⑨ The gambling commission is mistaken. The 2004 amendment to the compact with the Beuna Vista Rancheria of Me-Wuk Indians states that contributions to the revenue sharing trust fund are based on a graduated scale of fees for each gaming device in operation, or a "per-device" fee. Further, the 2004 amendment to the compact with the Ewiiapaayp band of Kumeyaay Indians states that: "Commencing on January 1 of the sixth calendar year of the tribe's gaming activities, the tribe shall pay on a quarterly basis to the State Gaming Agency for deposit into the trust fund for the following annual fees in accordance with the following schedule." This provision changes the amount contributed based on the year of operation.

Draft text was revised.

⑩

We understand that the La Jolla Slot Arcade is a seasonal operation that last operated in 2004, but included it in our count of casinos as the gambling commission did in the documentation they provided to us on casino locations.

⑪

The footnote was completed for the final report.

⑫

*(Agency response provided as text only.)*

County of Fresno  
Administrative Office  
2281 Tulare Street, Room 304  
Fresno, California 93721

June 25, 2007

Elaine M. Howle  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

RE: Fresno County Indian Gaming Local Community Benefit Committee

Dear Ms. Howle:

Fresno County is in receipt of the July 2007 draft, redacted "California Indian Gaming Special Distribution Fund: Local Governments Do Not Always Use It to Mitigate the Impacts of Casinos" audit report prepared by the California State Auditor's office. The Fresno County Indian Gaming Local Community Benefit Committee was one of the six counties selected to be audited.

We appreciate the effort undertaken by the California State Auditor in this endeavor. The final, public report will be shared with the members of the Fresno County Indian Gaming local Community Benefit Committee. We anticipate their consideration of your recommendations.

Sincerely,

(Signed by: Larry Fortune)

Larry Fortune, Chair  
Fresno County Indian Gaming Local Community Benefit Committee

*(Agency response provided as text only.)*

Placer County

Good Morning:

We have received two copies of the draft audit Report of the 2005-06 SDF / LCBC. We support the recommendations contained in the Report and will distribute copies of the Final Report to the members of the Placer County LCBC.

I also wish to thank you and the other members of your audit team for your cooperation and assistance in conducting this audit. If you have any questions please feel free to contact me.

Thank-you

(Signed by: Michael E. Paddock)

Michael E. Paddock  
Senior Management Analyst

*(Agency response provided as text only.)*

County of Riverside's Response to the California State Auditor's Report, "California Indian Gaming Special Distribution Fund: Local Governments Do Not Always Use It to Mitigate the Impacts of Casinos, and Its Viability Will be Adversely Affected by Compact Amendments."\*

On March 7, 2000 California voters approved Proposition 1A, which legalized slot machine and banking card games on Tribal lands and put into effect 61 Tribal-State gaming compacts; most compacts were signed on September 10, 1999.

Through the Tribal-State compacts, Tribes operating more than 200 gaming machines on September 1, 1999 were assessed a percentage of their average "net win" to be paid into the Special Distribution Fund (SDF). These quarterly payments were based on the number of gaming devices in operation. Funds from the SDF were designated for: grants to address gambling addiction, grants to mitigate Tribal gaming/casino impacts, State regulatory costs, backfill of the Revenue Sharing Trust Fund (to benefit non-gaming tribes), and other purposes specified by the Legislature.

On October 11, 2003, Governor Davis approved Senate Bill 621 (Battin and Burton), which established a method for distributing Indian Gaming Special Distribution Funds (SDF) to local government agencies impacted by Tribal gaming/casinos.

With 44.8 percent of the statewide "grandfathered" machines, Riverside County receives approximately 43 percent of the statewide allocation of Special Distribution Funds. Riverside County was the model in implementing SB 621, providing guidance and copies of all of the documents developed for the program to every other county requesting the information. Even Riverside County's Community Benefit Committee website was copied by certain counties. Riverside County is proud of the success of its Indian gaming mitigation grant program; over the past four years, \$57.8 million was allocated to 255 worthy projects. On average, more than 90 percent of the annual countywide allocation funds public safety and road projects.

On March 19, 2007, the Bureau of State Audits conducted an entrance conference and visited five grant recipients. An exit conference was conducted via conference call on June 14, 2007.

In response to the draft audit report titled "California Indian Gaming Special Distribution Fund: Local Governments Do Not Always Use It to Mitigate the Impacts of Casinos, and its Viability Will be Adversely Affected by Compact Amendments," following is a summary of the BSA's comments, findings and recommendations and Riverside County's response.

**BSA Comment:**

The Bureau of State Audits (BSA) reported that Riverside County received almost 43 percent of the \$50 million and distributed it in 24 grants averaging almost \$900,000 each (page 21. and Table B).

①

**Riverside County Response:**

Riverside County has 5,392 (44.8 percent) of the statewide 12,041 September 1, 1999 "grandfathered" machines. Riverside County received almost 43 percent of the \$50 million statewide allocation, but it was distributed through **70** grant projects, averaging approximately \$300,500 each.

②

\* California State Auditor's comments begin on page 81.



County of Riverside's Response to the California State Auditor's Report, "California Indian Gaming Special Distribution Fund: Local Governments Do Not Always Use It to Mitigate the Impacts of Casinos, and Its Viability Will be Adversely Affected by Compact Amendments."

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**BSA Comment:**

In fiscal year 2005/06, the Governor decreased the amount of funding available for mitigation grants in the Budget Act by \$20 million because some counties were not providing Finance with the required annual reports on the use of distribution fund spending. (Page 21)

**Riverside County Response:**

The following language is included in SB 621, Section 12716:

"Each county which administers grants from the Indian Gaming Special Distribution Fund shall provide an annual report to the Legislature by April 1st of each year detailing the specific projects funded by all grants in their jurisdiction."

With few exceptions, counties submitted their annual reports on time to the Legislature. It is the understanding of Riverside County that because "Finance" was not identified in SB 621 as a recipient of the required annual report; the Legislature passed SB 288, reinstating the \$20 million in funding and clarifying/

③ expanding the recipients of the annual report.

**BSA Finding:**

Some counties lacked transparency and accountability in their distribution fund spending. Counties are required to report to the Legislature and the Gambling Control Commission annually on the projects they financed through the distribution fund. However, our audit revealed that ... one county submitted information for the wrong fiscal year (page 8).

Our review found that at least one county did not include all required information in its most recent annual report. The law requires each county to submit an annual report on its current and prior year allocations and expenditures for distribution fund grants.

However, in fiscal year 2005/06, Riverside County failed to report its current year grant allocations and only provided expenditures of prior year grants (page 45).

**BSA Recommendation:**

Submit annual reports to all required Legislative committees and the Gambling Control Commission (page 10, 47).

**Riverside County Response:**

Senate Bill 288, Section 12716 states:

"Each county that administers grants from the Indian Gaming Special Distribution Fund shall provide an annual report to the chairperson of the Joint Legislative Budget Committee, the chairpersons of the Senate and Assembly committees on governmental organization and

County of Riverside's Response to the California State Auditor's Report, "California Indian Gaming Special Distribution Fund: Local Governments Do Not Always Use It to Mitigate the Impacts of Casinos, and Its Viability Will be Adversely Affected by Compact Amendments."

the California Gambling Control Commission by October 1 of each year, detailing the specific projects funded by all grants in the county's jurisdiction in the previous fiscal year, including amounts expended in that fiscal year, but funded from appropriations in prior fiscal years. The report shall provide detailed information on the following:

- (a) The amount of grant funds received by the county.
- (b) A description of each project that is funded.
- (c) A description of how each project mitigates the impact of tribal gaming.
- (d) The total expenditures for each project.
- (e) All administrative costs related to each project, excluding the county's administrative fee.
- (f) The funds remaining at the end of the fiscal year for each project.
- (g) An explanation regarding how any remaining funds will be spent for each project.
- (h) A description of whether each project is funded once or on a continuing basis."

As SB 288 directs, Riverside County's two-part annual report, dated September 25, 2006, lists the specific projects funded by all grants in the county's jurisdiction in the prior fiscal year (FY 2004/05), which expended funds from July 1, 2005 through June 30, 2006 (and after). In addition, the report identified grants awarded in the previous fiscal years (FY 2003/04 and 2004/05) which expended funds in FY 2004/05, 2005/06 and year-to-date in 2006/07. The report also provided all of the required detailed information ((a) through (h), above).

Absent the ability to seek clarification from the State on the accuracy of Riverside County's interpretation of SB 288, the California State Association of Counties (CSAC) was consulted. Riverside County staff explained that jurisdictions received funds in early July 2006 and it was our opinion the Legislature would not find any use in two months worth of expenditures. Based on the language included in the Bill (288), we determined the Legislature was requesting the expenditures covering the period July 1, 2005 through June 30, 2006 from FY 2004/05 grant awards, as well as FY 2005/06 expenditures from FY 2003/04 grant awards. CSAC agreed with Riverside County's determination.

This discussion prompted BSA staff to mention that other counties were able to award FY 2005/06 funds prior to July 2006 (allowing for a longer period of expenditures). The BSA staff asked Riverside County what caused the bottle-neck in awarding these funds, since the State Controller's Office released Individual Tribal Casino Account balances on September 30, 2005. Riverside County staff noted that because of the significant funding received for distribution each year, a process was developed in the program's first year and is adhered to each year. Staff described the following process used by Riverside County in FY 2005/06:

- The State Controller's Office released a letter, dated September 30, 2005, containing the Budget Act portion of the Individual Tribal Casino Account (ITCA) balances statewide; Riverside County's portion was \$12.7 million.
- During the subsequent Riverside County Local Community Benefit Committee (CBC) meeting, held December 12, 2005 (quarterly meeting schedule), the Committee approved the updated grant application template and schedule.
- Notice of funding availability was released to local jurisdictions on December 15, 2005.

