



OFFICE OF THE GOVERNOR

November 4, 2004

Honorable Mark Macarro, Chairperson
Pechanga Band of Mission Indians
P.O. Box 1477
Temecula, California 92593

Re: Violation of Compact Sections 4.1 and 4.3.2.2(a)

Dear Chairperson Macarro:

The Governor's Office has been informed by the Division of Gambling Control ("Division") that the Pechanga Band of Mission Indians ("Band") has 1,671 so-called video lottery terminals ("VLT") at its casino located at 45000 Pala Road. As of October 14, 2004, it is our understanding that 432 VLTs are on the casino floor with 271 of those devices currently available for patron use. We have also been advised that the remaining devices apparently are in a storage facility on site and will be made available for patron use on or about November 10, 2004. The Division has further informed us that the 271 devices currently available for patron use are linked to VLTs in operation at the Morongo Band of Cahuilla Mission Indian's casino in Cabazon.

These VLTs constitute class III gaming that is not authorized by the Band's tribal-state class III gaming compact ("Compact") with the State of California ("State"). First, though these devices seek to mimic a lottery game, they are not a game authorized to the California State Lottery ("CSL") under California law within the meaning of Section 4.1, subdivision (c) of the Compact. Inspection by the Division has determined that these VLTs are virtually indistinguishable from slot machines next to which they have often been placed. These VLTs are the same size as slot machines, have slot machine-style glass face plates with slot machine-style pay tables and slot machine configurations, and, in some instances, have virtual reels with symbols such as cherries and bars etc. that line up when a player has won. Under Government Code section 8880.28, subdivision (a)(1) "No lottery game may use the theme of . . . slot machines." Moreover, while the CSL may utilize electronic or electromechanical devices to dispense lottery tickets to be used in the play of lottery games, these VLTs do not qualify as permissible ticket dispensers because (a) contrary to Government Code section 8880.335,

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subdivision (a)(1), these devices actually display whether there has been a win or a loss and (b) contrary to the provisions of Government Code section 8880.335, subdivision (b), these devices communicate with another device that actually determines whether there has been a win or a loss.

Second, if VLTs are considered Gaming Devices within the meaning of Compact section 2.6, the Band is not authorized to operate them because the Band is already operating 2,000 Gaming Devices and is barred by the provisions of Compact section 4.3.2.2, subdivision (a) from operating more than 2,000 such devices at its casino.

Finally, if VLTs are neither Gaming Devices nor games authorized to the CSL, they are devices that are illegal under California law because they are class III games not authorized under the Band's Compact.

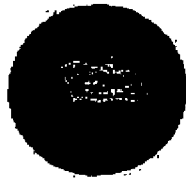
This letter is intended to provide the Band with the 60-day written notice to cure required by Compact section 11.2.1, subdivision (c). The Band's operation of these devices constitutes a material breach of its Compact with the State and the Band is requested to cure this violation by ceasing the operation of these devices, removing them from its casino and having the manufacturer transport them back to their place of origin at the manufacturer's plant. The Band is also requested to stop the shipment of any more VLTs to its Indian lands. If the Band fails to cure this violation within 60 days of the date of this written notice to cure, the State reserves the right to take appropriate action under the terms of the Compact.

Further, the Band is specifically requested to meet and confer with the representatives of the State pursuant to the provisions of Compact section 9.1 within 10 days of the date of this letter. The purpose of this meet and confer is to discuss the above described material breach of the Compact in a good faith effort to resolve this breach. Please contact the undersigned to arrange the exact time and place for the meeting.

Sincerely,


PETER SIGCHOS
Legal Affairs Secretary

cc: Eugene Balonon, Executive Director
California Gambling Control Commission
Robert Lytle, Director
California Division of Gambling Control, Office of the Attorney General
Robert Mukai, Senior Assistant Attorney General
Indian Gaming and Law Section, Office of the Attorney General



OFFICE OF THE GOVERNOR

November 4, 2004

Honorable Maurice Lyons, Chairperson
Morongo Band of Cahuilla Mission Indians
11581 Potrero Road
Banning, California 92220

Re: Violation of Compact Sections 4.1 and 4.3.2.2(a)

Dear Chairperson Lyons:

The Governor's Office has been informed by the Division of Gambling Control ("Division") that the Morongo Band of Cahuilla Mission Indians ("Band") is operating 200 so-called video lottery terminals ("VLT") at its casino located at 49750 Seminole Drive, Cabazon and 25 VLTs at its nearby tribal guest center/gasoline station. The Division has also informed this office that by November 15, 2004, the Band intends to operate an additional 1,800 VLTs at its new casino facility. We have further been advised that the VLTs currently operating are linked together with VLTs located at a casino operated by the Pechanga Band of Mission Indians.

These VLTs constitute class III gaming that is not authorized by the Band's tribal-state class III gaming compact ("Compact") with the State of California ("State"). First, though these devices seek to mimic a lottery game, they are not a game authorized to the California State Lottery ("CSL") under California law within the meaning of section 4.1, subdivision (c) of the Compact. Inspection by the Division has determined that these VLTs are virtually indistinguishable from slot machines next to which they have often been placed. These VLTs are the same size as slot machines, have slot machine-style glass face plates with slot machine-style pay tables and slot machine configurations, and, in some instances, have virtual reels with symbols such as cherries and bars etc. that line up when a player has won. Under Government Code section 8880.28, subdivision (a)(1), "No lottery game may use the theme of . . . slot machines." Moreover, while the CSL may utilize electronic or electromechanical devices to dispense lottery tickets to be used in the play of lottery games, these VLTs do not qualify as permissible ticket dispensers because (a) contrary to Government Code section 8880.335, subdivision (a)(1), these devices actually display whether there has been a win or a loss, and (b)

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contrary to the provisions of Government Code section 8880.335, subdivision (b), these devices communicate with another device that actually determines whether there has been a win or a loss.

Second, if VLTs are considered Gaming Devices within the meaning of Compact section 2.6, the Band is not authorized to operate them because the Band is already operating 2,000 Gaming Devices and is barred by the provisions of Compact section 4.3.2.2, subdivision (a) from operating more than 2,000 such devices at its casino.

Finally, if VLTs are neither Gaming Devices nor games authorized to the CSL, they are devices that are illegal under California law because they are class III games not authorized under the Band's Compact.

This letter is intended to provide the Band with the 60-day written notice to cure required by Compact section 11.2.1, subdivision (c). The Band's operation of these devices constitutes a material breach of its Compact with the State and the Band is requested to cure this violation by ceasing the operation of these devices, removing them from its casino and having the manufacturer transport them back to their place of origin at the manufacturer's plant. The Band is also requested to stop the shipment of any more VLTs to its Indian lands. If the Band fails to cure this violation within 60 days of the date of this written notice to cure, the State reserves the right to take appropriate action under the terms of the Compact.

Further, the Band is specifically requested to meet and confer with the representatives of the State pursuant to the provisions of Compact section 9.1 within 10 days of the date of this letter. The purpose of this meet and confer is to discuss the above described material breach of the Compact in a good faith effort to resolve this breach. Please contact the undersigned to arrange the exact time and place for the meeting.

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PETER SIGGARS
Legal Affairs Secretary

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