

Salton Sea Venture, Inc.

November 10, 2010

Via e-mail: nataliemanzo@doj.ca.gov
Phone: 213.897.2707

Dear: Ms Natalie Manzo

Enclosed you will find proof showing Red Earth Casino is importing fuel from Las Vegas, Nevada and not paying the required 8.75% sales tax, and only paying a portion of the required federal tax, the total taxes California and federal government are not receiving .60 cent on gasoline and 70 cent on diesel.

Western Refining Wholesale imports fuel from Nevada which is illegal to be sold in California "see attached Bill of Lading". This product contains 3.5% oxygen which meets the requirements and may be sold in Clark County, Nevada.

This Product does not meet the requirements for RFG and may not be sold in an RFG covered area. California is a RFG state which requires at least 5% oxygen by weight in all fuel. This makes it illegal for Riverside Tank Lines Carrier, Sierra Toba LLD (which is First American Petroleum LLC) Supplier, out of Washington, to import the fuel across state lines to California to be sold.

First American Petroleum stated selling fuel the first part of June, 2009 to Torres Martinez Indian, dba Selnek-in-Yem-AI which operates a gasoline Station at the Red Earth Casino, at HWY 86 & Norm River Road, Salton Sea Beach, California.

76 seized selling fuel to the Torre Martinez Indians then renamed the gasoline station Red Earth. The Red Earth Casino opened 4 years ago and to this date is not paying sales tax, I calculate the state of California should have received over Three Million Dollars (\$3,000,000.00) in sales tax.

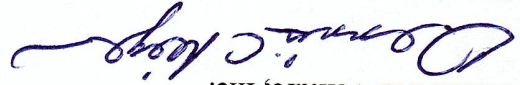
Please see the letter received by their former supplier Sellers Petroleum from the State Board of Equalization, proving the Indians are not exempt from payment of state sales tax.

I feel that bringing Illegal fuel to California and not paying taxes is a crime and is unfair business practices and must be stopped!

I would appreciate enforcement on both these issues so I can stay in Business.

Sincerely,

Salton Sea Venture, Inc.



Dennis C. Rieger
President/CEO

1209 Van Buren Ave Suite #3 Salton City, CA 92275
Ph: 760.394.4648 Fax: 760.394.4672

March 16, 2010

BETTY T. YEE
First District, San Francisco
MICHELLE STEEL
Third District, Rolling Hills Estates
JEROME E. HORTON
Fourth District, Los Angeles
JOHN CHIANG
State Controller
BARBARA ALBY
Acting Member
Second District, Sacramento
RAMON J. HIRSIG
Executive Director

Mr. Dennis Rieger
1209 Van Buren Avenue
Suite #3
Salton City, CA 92275

REC'D MAR 18 2010

Dear Mr. Rieger:

This is in response to your December 4, 2009 letter to Mr. Gary Wyatt, Imperial County District 4 Supervisor, a copy of which was provided to Mr. Jerome Horton, Board Member Fourth District. Your letter was forwarded to me for response. In your letter, you provide information regarding an Indian retailer on an Indian reservation that is selling gasoline and diesel fuel without tax. As a result of the Indian retailer failing to collect and report taxes, you are at a competitive disadvantage and must get this resolved to stay in business.

As you are probably already aware, the Revenue and Taxation Code provides that sales tax is imposed on the gross receipts from the retail sales of tangible personal property in this state. The sales tax is imposed upon the retailer for the privilege of selling tangible personal property at retail in California. The use tax is complementary (and mutually exclusive) to the sales tax and is imposed upon the storage, use, or other consumption in this state of tangible personal property, not subject to the sales tax. The obligation to pay the use tax is on the consumer.

Regulation 1616, *Federal Areas*, subdivision (d)(3)(A) provides the following:

1. Sales by Indians to Indians who reside on a reservation. Sales tax does not apply to sales of tangible personal property made to Indians by Indian retailers negotiated at places of business located on Indian reservations if the purchaser resides on a reservation and if the property is delivered to the purchaser on a reservation. The purchaser is required to pay use tax only if, within the first 12 months following delivery, the property is used off a reservation more than it is used on a reservation.

2. Sales by Indians to non-Indians and Indians who do not reside on a reservation. Sales tax does not apply to sales of tangible personal property by Indian retailers made to non-Indians and Indians who do not reside on a reservation when the sales are negotiated at places of business located on Indian reservations if the property is delivered to the purchaser on the reservation. Except as exempted below, Indian retailers are required to collect use tax from such purchasers and must register with the Board for that purpose.



Indian retailers selling meals, food or beverages at eating and drinking establishments are not required to collect use tax on the sale of meals, food or beverages that are sold for consumption on an Indian reservation.

The Motor Vehicle Fuel Tax Law and the Diesel Fuel Tax Law both impose a state excise tax on fuel at the point it first enters this state. The Sales and Use Tax Law requires persons selling gasoline and diesel at the wholesale level to pre-collect a portion of the sales tax. Revenue and Taxation Code section 6480.1 provides that at any time the motor vehicle fuel tax or diesel fuel tax would be imposed on any removal, entry, or sale in this state of motor vehicle fuel (gasoline) or diesel fuel, the supplier shall collect prepayment of retail sales tax from the person to whom it was sold.

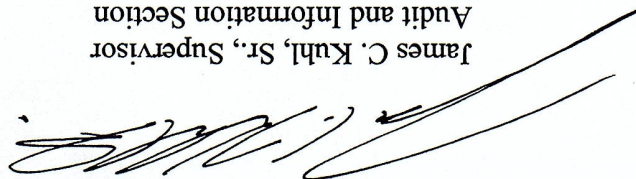
As provided by Regulation 1616, sales of gasoline and diesel by an Indian retailer on an Indian reservation to non-Indians are *not* subject to sales tax. However, the Indian retailer is required to collect the use tax from the non-Indian purchaser and report it to the state. Additionally, the fuel supplier selling fuel to the Indian retailer is liable for payment of the state excise tax and is also required to collect prepayment of sales tax at the time the fuel is sold to the Indian retailer. The law does not allow for an exemption from collecting prepayment of the sales tax when the fuel is sold to an Indian retailer.

The information provided indicates the out-of-state fuel supplier is failing to report the state excise tax and failing to collect the prepaid sales tax when selling fuel to the Indian retailer. Additionally, the Indian retailer does not appear to be collecting use tax on sales of fuel to non-Indians.

To ensure the proper taxes are reported, this information has been forwarded to our Fuel Taxes Division and the appropriate district office for investigation. However, due to confidentiality statutes, the results of our investigation may not be disclosed. Additionally, the BOE is preparing a special notice to remind fuel suppliers of the requirement to collect the prepaid tax when selling fuel to Indian retailers.

I appreciate your interest in the proper administration of the Sales and Use Tax program. Please feel free to contact me if you have any questions or concerns regarding this or any other sales and use tax matter.

Sincerely,



James C. Kuhl, Sr., Supervisor
Audit and Information Section

JCK:bem:jc

cc: Honorable Jerome Horton, Member, Fourth District
Ms. Randie L. Henry (MIC 43)
Mr. Douglas Anderson (MIC 72)
Ms. Freda Orendt (MIC 47)
Mr. Stephen Rudd (MIC 46)
Mr. Jeffrey L. McGuire (MIC 92)
Mr. Kevin Hanks (MIC 49)
Ms. Kelly Reilly (MIC 47)
Ms. Erin Little (MIC 46)
Ms. Trista Gonzalez
Ms. Sandy McCaleb (MIC 43)
Ms. Mary Ann Hay (MIC 47)
Mr. Gary Lambert (MIC 46)
Mr. Larry Bergkamp (MIC 92)
Ms. Marflor Jimenez (MIC 49)
Mr. Todd MacMurray
Mr. Bradley Miller

Marixa Moreno

From: Grnja, Lisa R [Lisa.Grnja@bp.com]
Sent: Tuesday, March 16, 2010 4:02 PM
To: Dennis C. Rieger
Cc: Lahti, David L; Strenk, Donald G
Subject: Red Earth

Hello Dennis. I hope all is well and business is continuing to increase with the recreation vehicles, etc.

I have a bit of an update on the Red Earth issue:

The BOE can confirm that they have identified where the fuel is coming from and are addressing it from that end. It is probably not the retailer that they will go after, but the importer of the fuel which usually is an out-of-state supplier. All of the players in this scenario are on their radar.

The BOE continues to actively work with Native American cases as they come up as they want to ensure the State is receiving the proper tax due. The BOE understands our frustration and wants to encourage you/us to provide any information you have and continue to advise the BOE of these types of situations.

Thanks Dennis.
Lisa

Elias Rios Jr.

From: Grnja, Lisa R [Lisa.Grnja@bp.com]
Sent: Tuesday, March 16, 2010 5:02 PM
To: Dennis C. Rieger
Cc: Lahit, David L; Strenk, Donald G
Subject: Red Earth

Hello Dennis. I hope all is well and business is continuing to increase with the recreation vehicles, etc.
 I have a bit of an update on the Red Earth issue:
 The BOE can confirm that they have identified where the fuel is coming from and are addressing it from that end. It is probably not the retailer that they will go after, but the importer of the fuel which usually is an out-of-state supplier. All of the players in this scenario are on their radar.
 The BOE continues to actively work with Native American cases as they come up as they want to ensure the State is receiving the proper tax due. The BOE understands our frustration and wants to encourage you/us to provide any information you have and continue to advise the BOE of these types of situations.

Thanks Dennis.
Lisa



STATE BOARD OF EQUALIZATION
 STATE OF CALIFORNIA
 450 N STREET, SACRAMENTO, CALIFORNIA
 PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0444
 916-324-2916 • FAX 916-322-0187
 www.boe.ca.gov

BETTY T. YEE
 First District, San Francisco
 BILL LEONARD
 Second District, Oxnard/Sacramento
 MICHELLE STEEL
 Third District, Rolling Hills Estates
 JUDY CHU, Ph.D.
 Fourth District, Los Angeles
 JOHN CHIANG
 State Controller
 RAMON J. HIRSHIG
 Executive Director

July 22, 2008

SY FHA 100-792779

Dear Mr. Sellers:

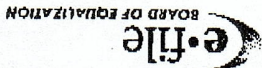
Mr. Reed Sellers
 Sellers Petroleum
 350 W. Aten Road
 Imperial, CA 92251

This is in response to your June 6, 2008 letter in which you request the proper application of the California Sales and Use Tax Law with respect to collection of pre-paid sales tax on sales of fuel to an Indian retailer on a reservation.

As a preliminary matter, section 6596, "Excusable Delay-Reliance on Advice," of the California Sales and Use Tax Law grants taxpayers relief from future liabilities if the underreported tax is based on incorrect written advice provided by a Board representative. However, without specific details regarding the transactions in question, I cannot provide you with a specific opinion. The answer given is intended to provide general information regarding the application of tax based on the information you have provided and will not serve for relief of liability under section 6596.

For your general information, the Revenue and Taxation Code provides that sales tax is imposed on the gross receipts from the retail sales of tangible personal property in this state. The sales tax is imposed upon the retailer for the privilege of selling tangible personal property at retail in California. The use tax is complementary (and mutually exclusive) to the sales tax and is imposed upon the storage, use, or other consumption in this state of tangible personal property, not subject to the sales tax. The obligation to pay the use tax is on the consumer.

In your letter, you state that your company, Sellers Petroleum (Sellers), was asked to deliver gasoline and diesel to the Torres Martinez Indians (T-M Indians) on their reservation. The actual purchasing entity is Selnek-is-Tem-AI Corporation (Selnek), owned by the T-M Indians, and is operated solely by tribal members for the benefit of the tribe. Transfer of ownership of the fuel will occur on the reservation. You ask if Sellers Petroleum is required to charge or pre-collect tax on its fuel sales to Selnek.



July 22, 2008

Mr. Reed Sellers

Regulation 1616, Federal Areas, states, with regards to Indian Reservations:

Sales by Indians

1. Sales by Indians to Indians who reside on a reservation. Sales tax does not apply to sales of tangible personal property made to Indians by Indian retailers negotiated at places of business located on Indian reservations if the purchaser resides on a reservation and if the property is delivered to the purchaser on a reservation. The purchaser is required to pay use tax only if, within the first 12 months following delivery, the property is used off a reservation more than it is used on a reservation.

2. Sales by Indians to non-Indians and Indians who do not reside on a reservation. Sales tax does not apply to sales of tangible personal property by Indian retailers made to non-Indians and Indians who do not reside on a reservation when the sales are negotiated at places of business located on Indian reservations if the property is delivered to the purchaser on the reservation. Except as exempted below, Indian retailers are required to collect use tax from such purchasers and must register with the Board for that purpose.

Indian retailers selling meals, food or beverages at eating and drinking establishments are not required to collect use tax on the sale of meals, food or beverages that are sold for consumption on an Indian reservation.

As such, Selnek is not required to collect sales tax on its sales. However, when making sales to non-Indians or Indians that do not reside on a reservation, Selnek is required to collect and remit use tax on its transactions.

With regards to a sale of fuel delivered to the reservation by Sellers, since Selnek will sell fuel to both Indians and non-Indian customers, Sellers must pre-collect sales tax from Selnek in accordance with Revenue & Taxation Code section 6480.1. If Selnek subsequently sells the fuel to an on-reservation Indian whose purchase is exempt from tax, it may seek from the Board a refund of the pre-collected sales tax paid to Sellers. If the fuel is sold to a person who is not exempt from state taxation (i.e., a non-Indian or an Indian who does not reside on a reservation), and who owes California use tax, the pre-collected sales tax may be offset against Selnek's use tax obligation.

Regarding diesel fuel tax and motor vehicle fuel tax, these taxes are deemed to be imposed on the supplier of the fuel at the point that the fuel is removed from the refinery or terminal rack or imported into this state. When Selnek purchases this fuel, no diesel or motor vehicle fuel taxes are imposed on it because the taxes have already been imposed on the supplier further up the chain of distribution. The fuel taxes are included in the cost of the fuel, in the same way as are other expenses of the supplier. Selnek is not due a credit for these taxes when it purchases fuel from Sellers.

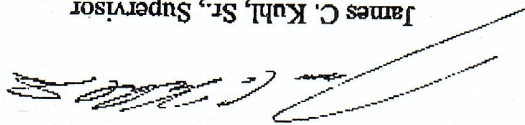
I hope this information is helpful. If you have any further questions regarding this or any other issue, please write us again or call our Information Center at (800) 400-7115. You may also visit

Mr. Reed Sellers

July 22, 2008

our website at www.boe.ca.gov.

Sincerely,



James C. Kuhl, Sr., Supervisor
Audit & Information Section

916/3242916

JCK:kbs:jc

- cc: Ms. Freda Orendt (MIC 47)
 Mr. Stephen Rudd (MIC 46)
 Mr. Craig Clauson, (FH), with copy of incoming letter
 Ms. Kelly Reilly (MIC 47)
 Ms. Erin Little (MIC 46)
 Ms. Mary Ann Hay (MIC 47)
 Mr. Michael Loreta (MIC 46)
 Ms. Trista Gonzalez (MIC 44)
 Mr. Todd MacMurray (MIC 44)
 Kirsten Stark (MIC 44)

GARY WYATT
SUPERVISOR - DISTRICT 4
940 Main Street, Suite 209
El Centro, CA 92243
560 N. 8th Street, Room 7
Brawley, CA 92227

October 3, 2009

State of California
State Board of Equalization
450 "N" Street
Sacramento, CA 94279-0044

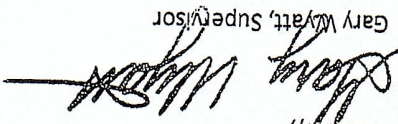
RE: Your file # SY FHA 100-792-779
Attn: James C. Kuhl, Sr.

Dear Mr. Kuhl:

I am in receipt of a copy of a letter written by you on the above matter pertaining to gasoline sales at the Red Earth Travel Center operated by the Torres-Martinez Indian Tribe here in Imperial County. It is my understanding that the tribe is currently paying no sales tax on gasoline and other retail sales at that facility.

As a Supervisor of Imperial County, I request that SBE immediately investigate this matter and begin collecting the tax revenue, as well as any back taxes which the tribe may owe. As you know, the state is struggling to balance its budget, and it goes without saying that these fiscal problems are affecting our county as we strive to meet the public service needs of our residents.

To continue to allow the tribe to ignore the law, to deprive state and local governments of badly-needed revenue, and to unfairly compete with other law-abiding businesses in the area is simply intolerable. I again ask that your agency commence a prompt and thorough investigation of this matter and enforce the laws of this state. Please inform me at your earliest convenience as to your intentions in this critical matter.

Sincerely,

Gary Wyatt, Supervisor
Imperial County, District 4

CC: Imperial County Board of Supervisors
Senator Denise Moreno Ducheny
Assemblymember V. Manuel Perez
Congressman Bob Filner
United State Dept. of the Interior, Bureau of Indian Affairs



BUS: (760) 482-4613
BUS: (760) 351-2681
FAX: (760) 352-7876
email: garywyatt@imperialcounty.net

CPL, TINDER MORGAN/ D/L-LLP
 5049 NORTH BLOSSUM LANE
 LAS VEGAS, NV 89110

BILL OF LADING NUMBER 1300708
 FOLIO NUMBER 11/004
 ORDER NUMBER 0000000
 SIGNI TERM 11/00/00 00120
 END TERM 11/00/00 00120
 SHIP TO

SUPPLIER

STOCKHOLDER 0000004
 WESTERN REFINING WHOLESALE
 WESTERN REFINING WHOLESALE
 6500 IRVING DRIVE
 FT HARRIS TX 75405
 PHONE # (915)861-0008
 FAX #

CUSTOMER NAME WESTERN REFINING WHOLESALE
 ADDRESS 6500 IRVING DRIVE FT HARRIS TX 75405
 ACCOUNT 0000008
 PERIOD # LARSON DILL, MV 87/07
 DRIVER

DELIVERED BY

JACKER # 000124
 NAME PACIFIC TANK LINES
 TRAILER 1 # 227
 TRAILER 2 #
 TRAILER 3 #

HAZARDOUS WARNINGS

GALLONS 8/07

PRODUCT COMMENTS AND TOTALS

UNLEADED PREMIUM, 91 OCTANE GASOLINE WITH DETERGENT ADITIVE.
 AT LEAST 3.5% OXYGEN BY WEIGHT. MAXIMUM SULFUR CONTENT IS 80 PPM. MAXI-
 MUM AROMATIC CONTENT IS 50 VOLUME %. THIS PRODUCT MEETS THE REQUIREMENTS FOR
 CNG AND MAY BE SOLD IN CLARK COUNTY. THIS PRODUCT DOES NOT MEET THE
 REQUIREMENTS FOR REG AND MAY NOT BE SOLD IN REG COVERED AREA.
 UNLEADED REGULAR, 87 OCTANE GASOLINE WITH DETERGENT ADITIVE.
 AT LEAST 3.5% OXYGEN BY WEIGHT. MAXIMUM SULFUR CONTENT IS 80 PPM. MAXI-
 MUM AROMATIC CONTENT IS 50 VOLUME %. THIS PRODUCT MEETS THE REQUIREMENTS FOR
 CNG AND MAY BE SOLD IN CLARK COUNTY. THIS PRODUCT DOES NOT MEET THE
 REQUIREMENTS FOR REG AND MAY NOT BE SOLD IN REG COVERED AREA.

PROD CODE	DESCRIPTION	GROSS GALLONS	NET GALLONS	TEMP	AFT GRAV	OCTANE
CORRG	CORG PREMIUM, 91 W/ETH	1799	1791	67.0	1/91	91.0
CORRG	CORG REGULAR 87 W/ETH	1970	1912	67.4	1/91	91.0
CORRG	CORG REGULAR 87 W/ETH	3751	3719	73.8	3/19	87.0
CORRG	CORG REGULAR 87 W/ETH	3378	3344	74.9	3/22	87.0
CORRG	CORG REGULAR 87 W/ETH	3157	3124	75.2	3/24	87.0
CORRG	CORG REGULAR 87 W/ETH	2839	2808	76.0	3/19	87.0

B-11 of Loading



invoice detail

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Please do not remit payment via check. The amount shown below will be EFT from your bank account on the discount date, if a discount is applicable, else on the net due date.

INVOICE
 INVOICE#: 3029220026
 INVOICE DATE: 07/05/2009
 CUSTOMER NUM: 0090157185
 SHIP_TO NUM: 0090157185

ORDER NUM#: 0135907494
 ORDER DATE: 07/03/2009
 DELIVERY NOTE#: 60222742106

BILL TO:
 SALTON SEA VENTURE
 2084 MARINA DRIVE
 SALTON CITY CA 92275

TERMS OF DELIVERY
 FOB Delivery Pt, FRT Prepaid
 SHIPMENT DATE: 07/03/2009
 VIA: COX PETROLEUM TRANSPORT
 Ship From Plant:
 AOCW COLTON CA (LTAZ, BLOOMINGTON, CA

SHIP TO:
 SALTON SEA VENTURE, INC
 2084 MARINA DRIVE
 SALTON CITY CA 92275

Product Code	Product Description	Sales Qty	Pricing Qty	Price	Price Unit	Amount USD
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355221	ARCO ULS CARB DIESEL BOL: 0498649 Ship Date: 07/03/2009 16:46:00 MOT: Truck Temperature: 85.00 FA, Density 38.000 3,500.00 GAL	3,457.00 GA6		1.824500	US\$ 1 GA6	6,307.30
341625	ARCO ECU LR W/5-7.6 ETOH BOL: 0498649 Ship Date: 07/03/2009 16:46:00 MOT: Truck Temperature: 86.00 FA, Density 60.300 4,898.00 GAL	4,809.00 GA6		2.103600	US\$ 1 GA6	10,116.07

INVOICE PAY
LOT
PAYABLE

1 GA6	0.183000 US\$	4,809.000	0.183000 US\$	4,809.000	1 GA6	880.05
1 GA6	0.001000 US\$	8,266.000	0.001000 US\$	8,266.000	1 GA6	8.27
1 GA6	-0.025650 US\$	4,809.000	-0.025650 US\$	4,809.000	1 GA6	-123.35
1 GA6	0.001796 US\$	4,809.000	0.001796 US\$	4,809.000	1 GA6	8.64
1 GA6	0.001905 US\$	3,457.000	0.001905 US\$	3,457.000	1 GA6	6.59
1 GA6	0.243000 US\$	3,457.000	0.243000 US\$	3,457.000	1 GA6	840.05
1 GA6	0.180000 US\$	4,809.000	0.180000 US\$	4,809.000	1 GA6	865.62
1 GA6	0.180000 US\$	3,457.000	0.180000 US\$	3,457.000	1 GA6	622.26
1 GA6	0.120000 US\$	4,809.000	0.120000 US\$	4,809.000	1 GA6	577.08
1 GA6	0.135000 US\$	3,457.000	0.135000 US\$	3,457.000	1 GA6	466.70
1 GA6	0.001122 US\$	4,809.000	0.001122 US\$	4,809.000	1 GA6	5.40
1 GA6	0.001190 US\$	3,457.000	0.001190 US\$	3,457.000	1 GA6	4.11

TOTAL DUE: 20,584.79

Total Sales Units: 8,266 GA6 Total Gross Weight: 53,639 LB