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Assembly California Legislature

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CHAIR, ASSEMBLY HEALTH COMMITTEE

August 8, 2002

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DELTA PROTECTION COMMISSION

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

Dear Chairman Hensley and Commissioners:

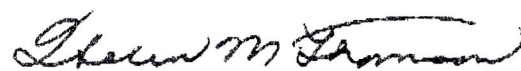
I am writing in support of the Attorney General's informal opinion that favors the earlier date for Special Distribution Fund payments to begin. Earlier collection would provide an additional revenue source so important at this time. Additionally, it appears to be a reasonable start date for the contributions to commence. As some uncertainty surrounding implementation remains, however, I leave final resolution of this point to the commissioners' discretion. More important for the present and long term, is the issue of "net win." The commonsense methodology for calculating these payments is critical to the financial well being of the state regulatory agencies and local governments of the State of California.

With regard to the definition of "net win," payments should be based on the "average device net win" as defined by standard accounting practice in return for exercising the privilege of offering slot machine gaming in California. There is no language within the Tribal-State Compact to provide for tribal operations to deduct basic operating expenses or promotional costs prior to paying their calculated share of quarterly fees. As established by the Tribal-State Compact, the Special Distribution Fund was intended to provide relief for state and local agencies impacted by tribal gaming. This fund was intended to be supplemental. It did not remove the obligation of tribal governments to mitigate their fair share of the impacts created by their casino developments.

Special Distribution Fund payments must be regarded as just one component of financial mitigation. One of the most important of the compact terms is the framework for environmental protection for the off-reservation impacts of a casino operation. Section 10.8.2 (b) 2 directs tribes to make good faith efforts to mitigate any and all such significant adverse off-reservation environmental impacts, which are considerable. Tribal governments are insulated from taxes and regulatory fees due to their tribal sovereignty protection, and so enjoy a competitive advantage over other vested gaming interests or other similar private businesses. For this reason, it is crucial that ongoing in lieu payments be made through the Special Distribution Fund and directly to local governments to mitigate off-reservation impacts of tribal gaming operations beginning as soon as possible.

Thank you for your consideration of my concerns.

Sincerely,



HELEN M. THOMSON

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