San Manuel Band of Mission Indians
Tribal Gaming Commission
OFFICE OF THE COMMISSION

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April 20, 2012

Stuart Drown, Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Re: Governor's Reorganization Plan

Dear Mr. Drown:

The San Manuel Gaming Commission welcomes the opportunity to submit written testimony relative to the Governors Reorganization Plan that proposes the consolidation of certain functions between the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) as provided in the Governors Reorganization Plan No. 2 of 2012 (GRP). We enjoy a very healthy working relationship with both agencies and look forward to continuing this relationship into the future.

We believe there should be one state gambling regulatory agency, a "one stop shop" for investigations, licensing, compliance enforcement, monitoring and related functions. An Arizona or NIGC model would be more efficient and less confusing. Simply switching responsibilities from one agency to the other piecemeal is not going to reduce any real or perceived confusion among tribes, it will simply add to it under the proposed plan. However, if combining all regulatory functions in one agency is not an option, we offer the following observations.

Having reviewed the GRP and the subsequent written comments from both the Commission and the Bureau, we offer the following observations. The Bureau states, "The functional boundaries of both agencies…deviate substantially from legislative intent…" We disagree. The Gambling Control Act (the Act) does not mention "Compacts"; there were none when the Act was passed. There was in fact, little if any "Legislative Intent" on the state's role in the regulation of Indian gaming. That was and is defined in the negotiated Tribal State Compacts. The entire premise of the Bureaus' written testimony is flawed when relying on this foundation.

Since all the regulatory functions need to be executed, it really is immaterial which agency does them. However, after careful review, we find no evidence of any major cost savings in the proposed plan.

The proposals of the Bureau are as stated earlier, flawed and overly simplistic. The repeated references to the GCA are misplaced. It is problematic to have Indian gaming and non-Indian gaming under one set of rules. The Tribal State Compacts are the appropriate method of

addressing the issues related to tribal gaming and are a government-to-government agreement. The GCA refers to authority over "licensees", tribes are not licensees. The GCA is not as clear or precise as the DOJ would suggest.

Over time, the Commission and Bureau have separated their duties to the current situation where the Bureau deals primarily with card rooms and the Commission with tribal casinos. This arrangement seems to work well and changing the responsibilities of both agencies for the sake of change seems unnecessary.

More troubling is the Bureau's reference to the testing of gaming devices. Although the Commission did receive budgetary approval to establish a test lab for gaming devices, the harsh reality of the enormous amounts of money and staffing necessary to establish such a lab became obvious to the Commission and the project was not pursued. For the Bureau to claim they have the expertise to establish and operate such a lab is troubling. The state of Nevada recently announced they will no longer operate their test lab and will look to private test labs to conduct the testing of gaming devices due to the previously mentioned high cost in dollars and staffing. Further, many of the Compacts specifically assign device compliance testing to the Commission. The compacts are the product of long, detailed negotiations with the final document subject to legislative approval. To suggest a complete change in responsibilities between agencies with no evidence of improvement in processes or cost savings seems to be without merit.

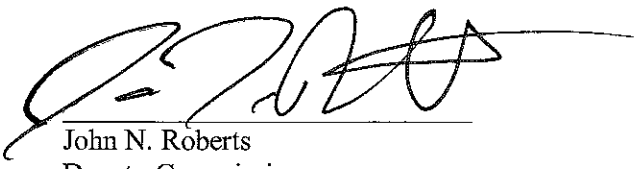
As Chairman of the Tribal State Association Technical Standards Taskforce, charged with the review and amending of CGCC 8, I had probably the most detailed knowledge of the negotiations between the tribes and the state on this regulation. During the three plus years I was Chairman, the Bureau took a very limited role in the taskforce meetings and drafting sessions. This changed towards the end when Jacob Appelsmith was appointed head of the Bureau, but the overall direction of the Bureau concerning their role under CGCCV 8 did not change materially. Rather, they seemed content to cede the role of the SGA to the Commission. Again, the Bureau wishes to transfer responsibility for compliance inspections and enforcement of the MICS from the Commission to the Bureau. Throughout their testimony, the Bureau proposes to bypass amending regulations and statutes by simply providing proper "notice" to the tribes. What may be mildly confusing now will become thoroughly confusing if the piecemeal approach to duties and responsibilities is implemented.

Unfortunately the consistent tone or theme of the bureau's submitted written comments are seemingly overly focused on "investigations" and "enforcement". This heavy handed focus will be a major setback to the positive mutually respectful relationships that have developed in recent years between the Tribes and the state agencies.

For the Bureau to make the statement that "unquestionably, they are better positioned to perform the full scope of tribal compliance enforcement and auditing functions than are the Commission's general auditors and analysts housed in Sacramento", is indeed questionable. Such a statement is at best misleading to your Commission. The fact is that the Bureau of Gambling Control has no "compliance enforcement" authority over tribal gaming operations. If there is a dispute over compliance it will be addressed through the compacted dispute resolution process.

Again, we thank you for the invitation to submit these written comments regarding the Governor's Reorganization Plan.

Sincerely,



John N. Roberts
Deputy Commissioner