



TRIBAL GAMING AGENCY

November 20, 2014

**VIA ELECTRONIC AND U.S. MAIL**

Susanne George  
Bureau of Gambling Control  
Department of Justice  
P.O. Box 168024  
Sacramento, CA 958164

**Re: Proposed Amendment to Gaming Activity Authorization Regulation**

Dear Ms. George:

On May 15, 2014, I wrote to Bureau Chief Wayne Quint setting out the Yocha Dehe Tribal Gaming Agency's input with respect to the issue of collection fees at California cardrooms. Subsequently, on October 31, 2014, the Bureau issued proposed amendments to its gaming activity authorization regulation. As the Chairman of the Yocha Dehe Tribal Gaming Agency, I write to provide you our further input on the subject of collection fees.

At the outset, I note that the comments in my May 15 letter still apply fully, and I incorporate them here by reference. Considering it is early in the process of amending the regulation, we do not believe it is necessary to select one of the three options the Bureau set out in its October 31 documentation. Rather, we want to emphasize the overall principles we believe the final regulation must adopt and apply.

The first of those principles is that the regulation should explicitly spell out the situations in which a waiver of the collection fee is appropriate. This is a critically important issue and one which the Bureau's three options do not address. As written, each of the options provide that players must pay a fee "*if a fee has not been waived* pursuant to approved game rules." As my May 15 letter explains, we know *precisely* when a cardroom can waive a fee. Before the advent of AB 278 in 2003, no fee waiver was permitted. The legislative history to that bill explained the desire for a "player friendly" change, but *only* where: (1) A player receives no action on his wager, or (2) the entire hand folds with no betting at all. While we believe the rules of games played in cardrooms should spell out that those are the only situations where the cardroom may waive the fee collection, that apparently is not the case, as cardrooms regularly waive fees on a wholesale basis. Thus, if the amended regulation does not explicitly set forth the two situations in which the cardroom may waive the fee collection, the regulation will accomplish virtually nothing and the current unacceptable situation will remain largely the same.

Along the same lines, we note that the wholesale waiver of the fee collection is unlawful in any event. Penal Code section 337j(f) provides that waiver may occur on a “hand or round of play” basis, after the hand or round has begun, not as a general rule of the game. This is another aspect the final regulation must include, but the Bureau’s three options do not.

Another principle the final regulation must address is that each player at the table has to pay the collection fee from his or her own funds. We were glad to see that each of the Bureau’s three options provide for this. If they did not, the cardrooms would simply side-step the fee requirement by having the player-dealer (that is, the third party proposition player) pay the fee for the other players, thereby perpetuating the insupportable situation that exists today.

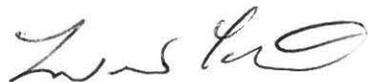
The regulation must also ensure that all players at the table, including the player-dealer, pay the same fee for the same level of wager, and that the fee not be so small as to effectively avoid the statutory requirement. Further, the regulation should specify the bets to which the fee applies. We believe it consistent with the statutory requirement that the fee apply to *each bet* a player makes, not just the initial bet. The regulation does not make that clear.

Further, we note that the regulation applies (in subsection (a)) where a cardroom comes to the Bureau “for initial licensure” and also (in subsection (b)) where “after initial licensure” a cardroom requests the authorization for a new game. The regulation does not seem to apply to games being played at established cardrooms at the time the regulation comes into effect. It is important to provide a mechanism by which the regulation is made to apply to such games.

We also wish to point out the need for a bit of housekeeping. The Bureau’s three options use some inconsistent language in that they appear to refer to the same entity (the cardroom) as the “gambling establishment,” the “gambling enterprise,” and a “Gambling Business.”

Thank you for considering our comments. We look forward to participating in the Bureau’s December 12, 2014 workshop.

Sincerely,



Leland Kinter  
Chairman  
Yocha Dehe Wintun Nation Tribal Gaming Agency