



Testimony of the Honorable Mark Macarro
Tribal Chairman, Pechanga Band of Luiseño Indians
To the Senate G.O. Committee's Informational Hearing
"Examining the Public Policy and Fiscal Implications Related to the
Authorization of Intrastate Internet Poker in California"

February 9, 2010

Chairman Wright and Members of the Committee,

First, on behalf of the Pechanga Tribe and the nearly 4,000 employees of the Pechanga Resort & Casino, I want to thank you for the opportunity to address the committee on this important subject.

Although Pechanga appreciates this hearing, I must also say that we regret having to speak against this proposal, which is largely backed by our friends at Morongo. Despite our historic alliance, this is one of those rare instances in which...we simply do not agree with the consequences of authorizing intrastate internet poker.

Mr. Chairman and members, March 7th will mark ten years since the voters of California historically and overwhelmingly approved a constitutional amendment to permit Class III gaming on tribal lands.

I trust every member of this committee is aware of the considerable progress voter approval of Indian gaming has brought to virtually every single Tribal Community in this state, including non-gaming tribes.

We are very proud of the fact that, through the end of 2009, non-gaming tribes received more than \$641 million dollars through the Revenue Sharing Trust Fund. No other state in the union has such a far-reaching and innovative revenue sharing provision.

Pechanga first began our gaming operations in 1995 with the opening of the Pechanga Entertainment Center. We opened in temporary facilities with only 135 employees. Today, the Pechanga Resort & Casino employs close to 4,000 people.

If you had visited our reservation in 1995 you would have seen families living without plumbing, families in homes with plastic in place of glass windows. Half of our members were living in poverty. That was then.

Today, because of tribal gaming, we fund important governmental programs and provide essential services to our citizens including our Pechanga Elementary School on the reservation, cultural resources protection, health care services, environmental protection, water infrastructure, senior support programs, youth programs, scholarships, energy infrastructure, and many more services.

As many of you know, securing our right to conduct Class III gaming on our lands was no small feat. Collectively, we had to spend tens of millions of dollars in multiple ballot campaigns to simply confirm an inherent right.

Central to that historic vote was our commitment to limit gaming to our tribal lands for the simple purpose of achieving self-sufficiency for our tribal communities.

We thought then, as we do now, that this commitment was consistent with longstanding federal and state public policy of limiting gaming.

Because of those precepts, tribes throughout California have entered into long-term agreements with this State, made financial commitments, and invested billions of dollars with the goal of developing world-class destination resorts on tribal lands.

Indeed, the last time I testified before this committee was April 11th of 2007, when Pechanga sought ratification of our amended tribal-state compact. Those

amendments included commitments by our Tribe to significantly increase our base revenue sharing – for just 2,000 machines - from \$29 million to \$42.5 million.

This means that without adding a single gaming device, we agreed to increase our revenue sharing with the State by 45% because, as the compact states, “the payments specified in this subdivision” - meaning the base payment and the payments for machines over 2,000 games – “have been negotiated between the parties as a reasonable contribution to be made annually in quarterly payments based upon the Tribe’s market conditions, its circumstances, and the rights afforded by this Amendment.”

In our view, authorization of intrastate internet poker would undo those precepts. My Tribe would very seriously reconsider the revenue sharing provisions of the Amended Compact because clearly, the notion of people playing state-sanctioned internet poker was not a market condition that was accounted for in our discussions.

Frankly, if this proposal had been discussed back when we were renegotiating the Compact, our Tribe likely would have rejected the Amendment because, with internet poker - and eventually internet gaming - the gaming landscape and thus the market conditions would have been subject to rapid change and instability.

The question has been raised as to whether or not authorization of intrastate internet poker would constitute a violation of the exclusivity provisions of the compact. Well, fortunately, I’m not an attorney, but I know enough tribal attorneys to know there will be no shortage of opinions on that issue. Unfortunately, this means the question would probably result in a protracted legal dispute that would necessitate resolution by the courts.

From a practical standpoint, and as a significant segment of the gaming industry, we are deeply concerned about protections for children and individuals that are vulnerable to problem gambling. How would the State keep children from betting online if we can’t even keep them from visiting other illicit websites?

How can we control the gaming habits of an individual in the privacy of his or her own home?

We aren't the only ones concerned about protecting children and vulnerable citizens. The voters too are reticent about the impact of intrastate internet poker.

This past August, Pechanga decided to commission a statewide poll of 802 registered voters. Our purpose was simply to determine the voters' attitudes toward authorizing intrastate internet poker.

You see, as we weigh these proposed policies that could significantly expand gaming, Pechanga believes we must take into account the opinions and concerns of the people of California, particularly in light of the commitments we have made about limited gaming.

As we know all too well, there are two types of polls: the kind designed to elicit a particular and desired response, and the kind that provides an objective response. This poll is the latter, not the former. I believe we have made the actual top-line results available to you so you can judge the merits for yourself.

I would, however, like to point out that without hearing any arguments either way, 61% reject the idea of legalizing Internet poker in California. Of those 61%, 44% say they "strongly oppose." Only 36% support it.

After hearing arguments both for and against, 61% continued to oppose, with 46% saying they "strongly oppose."

In closing, let me say that we recognize and appreciate the state's urgent need to identify reliable sources of revenue. Our region - Southwest Riverside County - is ground zero for the Mortgage Crisis; we see the effects of the recession each and every day. Pechanga too has been affected by this downturn. In 2008, we had to lay off about 300 employees. It was our first and hopefully our last. We also made numerous cuts to critical tribal programs.

Yet, our ancestors' resilience instructs us that this too will pass, and brighter days still lay ahead for our State. So let us not make rash decisions in these gloomy days. Let us not abandon this framework that has worked so well and served as the foundation for significant tribal commitments and our tribal-state agreement.

Thank you.