

San Manuel Band of Mission Indians

February 10, 2016

The Honorable Adam Gray
Chair, Assembly Governmental Organization Committee
California State Assembly
State Capitol
Sacramento, CA 95814

RE: AB 1437 (Oppose unless amended)

Dear Assembly Member Gray:

On behalf of the San Manuel Band of Mission Indians, a federally recognized Indian tribe located near the City of Highland, California, I am writing to express our concerns with AB 1437, a bill that would expand gaming in California by perhaps legalizing Daily Fantasy Sports (DFS), then establishing a scheme to regulate the activity.

As you know, California's gaming tribes have made significant contributions to the state and local economies by offering games that are legal exclusively for tribes under state and federal law. As such, our members are very concerned that AB 1437 in its current form potentially sets a very dangerous precedent.

San Manuel supports legislative measures that provide greater consumer protections, however, in contrast to the highly deliberative process and hundreds of hours of testimony that has produced an extensive record on the authorization and regulation of online poker, AB 1437 and its sweeping implications for consumers have had very little vetting or deliberation. Accordingly, we have a number of questions about your bill and the DFS industry in general which will help inform a future position.

- Has there been outreach to the Attorney General or DOJ to determine the nature of DFS relative to California law?
- Provided DFS potentially represents a violation of state law, have there been discussions about sanctioning entities that continue to facilitate transactions prior to the bill taking effect?
- Does the measure contain adequate consumer protections, including protections designed to ensure that players have an opportunity to wager against players with similar skills?
- Does the state/DOJ have enough resources, staff, and capabilities to oversee and enforce DFS; and if not, what additional resources are necessary?
- Are DFS providers prepared to cover the actual costs associated with licensing and enforcement?
- Are DFS operators prepared to help fund the state's efforts to curb problem gambling, which are currently funded almost exclusively by Indian tribes conducting gaming in the state?
- Whereas proposed legislation to authorize and regulated online poker has always limited the market to operators currently licensed in California, this legislation allows for any qualifying licensee to enter the market. Is it your intention to allow for unlimited expansion of licensees in California, without regard to prospective operators' track records in the state?
- If DFS operators set the award amount regardless of the number of participants and amounts wagered, wouldn't that constitute a "banked" game, which is a violation of the California Constitution and the California Penal Code?

- Why are Internet poker operators expected to pay \$60,000,000 annually to the Horse Racing Internet Poker Account in the draft amendments to AB 431, yet DFS operators would have no such obligation?
- Because many of these same questions have been raised with respect to Internet poker, why aren't both issues combined into a single I-gaming measure?

As you know, many Attorneys General across the country have concluded that DFS is in fact gambling. While California Attorney General Harris has yet to opine on the issue, the question still remains as to whether or not DFS is illegal in California. Specifically, does DFS violate Article IV, Section 19 of the California Constitution or Penal Code Section 337 (a), and thus is the Legislature both prohibited from authorizing it and mandated to prohibit it?

Pursuant to the California Constitution, "banked games" were granted exclusively to California's Indian tribes through a voter-approved amendment to the state constitution. If DFS violates the Constitution's prohibition against gaming of the sort found in Nevada casinos, it can be authorized only through a constitutional amendment approved by the state's voters.

Assembly Bill 1437 appears to acknowledge that DFS violates 337 (a), yet your DFS bill would reward prospective DFS operators with the adoption of a new regulatory structure and now apparent repercussions for violating state law. This represents a very dangerous precedent and creates an unfair playing field that disadvantages those tribes that have spent billions of dollars to build up legal gaming enterprises, create jobs and business opportunities, and overall invest in California communities.

In addition to the aforementioned issues, any measure that expands gaming in California must also address how regulatory costs are to be equitably apportioned among licensed entities and how problem gaming programs are to be funded. Both the State's gaming regulatory agencies and its efforts to address problem gambling currently are funded disproportionately by Indian tribes that conduct government gaming activities in California. In order to operate in California, DFS operators must be required to pay a proportionate share of the costs associated with regulation, enforcement and problem gaming.

We welcome the opportunity to work with you to address the afore-mentioned items in order to ensure that consumers have sufficient protections and a level playing field is maintained for those gaming interests that have followed the law.

Thank you for your time and consideration.

Sincerely,



Lynn R. Valbuena
Chairwoman