



**Upstate Citizens for Equality**  
**Niagara Frontier Chapter**  
836 Indian Church Road  
West Seneca, NY 14224-1235  
<http://www.upstate-citizens.org>

July 16, 2007

Hon. Daniel B. Boyle  
Chairman  
State Liquor Authority  
84 Holland Ave  
Albany, NY 12208-3490

VIA FAX: 518-473-2286

RE: Liquor license of Turning Stone Casino in Verona, New York

Dear Chairman Boyle:

I am writing to you on behalf of Upstate Citizens for Equality's combined membership of approximately 8,000 taxpayers against the issuance of any liquor license to the Oneida Indian Nation or those in privity to them including caterers seeking licenses for the premises in which the Turning Stone Casino is located at this time.

New York Alcoholic Beverage Control Law § 106 (6) provides "No person licensed to sell alcoholic beverages shall suffer or permit any gambling on the licensed premises, or suffer or permit such premises to become disorderly. The use of the licensed premises, or any part thereof, for the sale of lottery tickets, playing of bingo or games of chance, or as a simulcast facility or simulcast theater pursuant to the racing, pari-mutuel wagering and breeding law, when duly authorized and lawfully conducted thereon, shall not constitute gambling within the meaning of this subdivision."

In the absence of a valid compact under the IGRA the Class III gaming currently being conducted at the Turning Stone Casino is in violation of Penal Law Article 225 and 18 U.S.C. §§ 1166, 1955 and is therefore not duly authorized and lawfully conducted thereon. In *Upstate Citizens for Equality, Peterman, et al v. Pataki, et al*, 4 Misc. 3d 1028A, the Court have ruled that the State did not lawfully enter into the tribal-state compact between the State of New York and the Oneida Indian Nation of New York. This decision was affirmed by the Appellate Division, Fourth Department of the New York Supreme Court (21 A.D.3d 1387) and the New York Court of Appeals denied leave to appeal (6 N.Y.3d 713) and the Oneida Indian Nation's petition to the U.S. Supreme Court was denied (127 S. Ct. 730). The State of New York is bound by this ruling.

The United States Department of the Interior has never approved of Class III gaming at Turning Stone in Verona, New York and it is currently not on Indian land. In a letter dated June 4, 1993 the United States Department of the Interior advised the Oneidas that the compact between the Oneidas and New York was approved and advised the OIN that the "compact does not specifically refer to the site where we understand the Nation has built a major new facility in anticipation of being able to conduct gaming in the future. Since the compact tracks the "Indian lands" definition in IGRA, we need not decide and take no position with regard to whether this new facility is on "Indian land" as that term is used in IGRA" A copy of this letter is attached for your reference. In fact there is currently pending an application to take the land on which



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Turning Stone is situated on into trust and the State is opposing this application. (see [http://www.dec.ny.gov/docs/legal\\_protection\\_pdf/platkin.pdf](http://www.dec.ny.gov/docs/legal_protection_pdf/platkin.pdf) and the attached May 13, 2005 letter to Secretary Norton and NIGC Chairman Hogan from Richard M. Platkin, Esq. as Counsel to the Governor)

Based on the foregoing we urge you to deny any request for a liquor license to the Oneida Indian Nation of New York or anyone in privity with them for the premises known as the Turning Stone Casino in Verona, New York, until such facility ceases the illegal Class III gaming or until it becomes duly authorized and lawful for it to conduct Class III gaming.

Sincerely,

Daniel T. Warren  
Chair  
Niagara Frontier Chapter, Upstate Citizens for Equality

Cc: Joshua B. Toas, CEO (VIA FAX: 518-473-2286 )  
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Thomas Donohue, Associate Counsel, Zone II (VIA FAX: 518-402-2304 )