



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

October 24, 2006

Eliot Spitzer  
Campaign Headquarters  
330 Madison Avenue, 19<sup>th</sup> Floor  
New York, New York 10017

VIA FAX: 212-979-2607

RE: Position on out-of-state Indian nations and tribes acquiring land and/or opening a casino in New York.

Dear Mr. Spitzer:

On behalf of the members of Upstate Citizens for Equality I urge you to reconsider your recently announced position that certain out-of-state tribes should be considered in-state tribes for purposes of acquiring land and/or opening a casino in New York.

In the debates with your opponent, candidate John Faso, you stated that you opposed out-of-state Indian nations and tribes acquiring land in New York for the purposes of opening a casino. You now claim that certain tribes that were parties to land claims against the State are actually in-state tribes and excepted from this position. You include the Oneida Tribe of Wisconsin, the Stockbridge Munsee band of Mohicans and the Seneca-Cayuga Tribe of Oklahoma within his exception. However, just because an Indian nation or tribe is, or was, a party to a land claim does not necessarily mean that they have a connection to the state sufficient to be considered an in-state nation or tribe as will be demonstrated below.

For example the Seneca-Cayuga Tribe of Oklahoma never was located in New York and although some of its members may be descendants of Indian nations and tribes from New York not all of them are. In fact in order to become a member of this tribe one must meet one of the following criteria that are set forth in its constitution: All persons of Indian blood whose names appear on the official census roll of the Tribe as of January 1, 1937; All children born since the date of the said roll, both of whose parents are members of the Tribe; Any child born of a marriage between a member of the Seneca-Cayuga Tribe and a member of any other Indian tribe who chooses to affiliate with the Seneca-Cayuga Tribe; Any child born of a marriage between a member of the Seneca-Cayuga Tribe and any other persons if such child is admitted to membership by the Council of the Seneca-Cayuga Tribe. In fact the founders of this tribe that were descendants of those that left New York in the mid 1700's prior to any of the alleged illegal treaties challenged in the land claim. In the Indian Claims Commission's (ICC) opinion in *Strong v. United States*, 31 Ind. Cl. Comm 89 at 114, 116, 117 [[2]] the ICC detailed the separation of the Seneca-Cayugas' ancestors (who are known as Mingoos) from the Six Nations and their migration to Ohio in the mid 1700's as follows: "The Seneca-Cayuga Tribe of Oklahoma constitutes the descendants of those Mingoos who were living in Ohio in the 18th century . . . Based upon the record in these proceedings, we believe that by the time of the 1794 Canandaigua Treaty, the Mingoos in Ohio were small, independent bands, no longer politically subservient to the Six Nations of New York. . . [B]eginning shortly before 1750, the Mingoos themselves were asserting their independence from the Six Nations of New York . . . The only



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conclusion which can be reached from an analysis of the activities of these Mingoes in Ohio during the 18th century is that they constituted independent bands who often acted in concert with other Ohio Indians. Their actions do not support the conclusion that they remained politically affiliated with the Six Nations of New York." This argument was used by the Seneca Nation of Indians when the tribe tried to intervene in its land claim against New York over land around Cuba Lake. In fact the Cayuga Indian Nation of New York is also taking the position that they are an out of state tribe.

Similarly with the Stockbridge-Munsee their membership may be composed of some people who can trace their ancestry to the Mahican nation that were from around the Hudson Valley. However, their membership also consists of descendants of other Indian nations and tribes that did not and never had any connection to the State of New York such as the Pequots of Connecticut and the Brothertown Indians who became a tribe in 1769 when seven Christian and English-speaking communities organized and moved to land in upstate New York from New England.

The question of whether the Oneida Nation of Wisconsin should be considered an in-state tribe is arguably a closer one than the others because this nation has retained its membership in-tact and has not merged or disbanded since it left New York in the early 1800's. However, they left New York under a federally ratified treaty that was not and is not being challenged. The Oneida Indian Nation of New York even considers them an out-of-state nation.

Also the Seneca-Cayuga Tribe of Oklahoma and the Cayuga Indian Nation of New York's land claim against New York was dismissed by the United States Court of Appeals for the Second Circuit and the United States Supreme Court declined to review the case. The Oneida Nation of Wisconsin, The Oneida Nation of New York and the Stockbridge-Munsee is facing a motion to dismiss their land claim against New York based on the precedents established by the Cayuga Land Claim Decision.

However, all of these Indian nations and tribes have reservations outside of New York and none have any reservation land within New York. To consider any of them to be an in-state nation or tribe for any purpose would be to turn logic and history on its head. The members of these Indian nations and tribes that can trace their ancestry to the Indian nations and tribes from New York and want to return to their ancestral homeland can do so by leaving the nations and tribes that they are a member of and move back and join those descendants that never left. However, the current out-of-state nations and tribes should not be permitted to exercise jurisdiction or control over land that they abandoned, sold, ceded, were dispossessed from or never had in the first place.



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Therefore I urge you to change your position on this issue and not permit these out-of-state Indian nations and tribes claim or acquire any land in New York and exercise sovereignty and jurisdiction over it.

Sincerely,

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