



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

July 31, 2003

Philip N. Hogen, Chairman
National Indian Gaming Commission
1441 L Street NW
Suite 9100
Washington, DC 20005

VIA Fax: 202-632-7066

Dear Chairman Hogen:

Thank you for your response dated July 21, 2003 to our request dated June 20, 2003. In your response you cited three reasons for not taking any action despite being charged with this duty. Specifically you noted the legislation introduced to ratify the Mohawk Compact, the stay of the New York Court of Appeals in *Saratoga County Chamber of Commerce v. Pataki*, and lastly the New York Supreme Court decision upholding Class III gaming in New York.

The legislation introduced to ratify the Mohawk Compact (and this compact only) has not been enacted. Therefore like the many bills introduced each year they remain just bills not law. Even if this was a proper point to be considered it still would not ratify the Compact with the Oneidas permitting their Turning Stone Casino.

The stay issued by the New York Court of Appeals in the matter of *Saratoga County Chamber of Commerce v. Pataki* expires on August 1, 2003. Justice Ginsburg has denied the Governor's request for a stay pending the determination of his petition for a writ of certiorari on July 29, 2003. Therefore there is no judicial stay in effect preventing the enforcement of the June 12, 2003 order of the New York Court of Appeals.

Lastly, the decision in the New York Supreme Court permitting Class III gaming in New York does not prevent the enforcement action requested either. That case concerned whether the State Constitution even permitted the State to enter into a gaming compact at all. It did not negate the necessity for a valid compact under the IGRA. In fact that case challenged a compact that was purportedly authorized by the State Legislature.

Therefore, on behalf of our members I request that you issue a closure order for any Class III gaming at either the Turning Stone Casino or the Akwesasne Mohawk Casino.

Sincerely,

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

Cc: Glenn T. Suddaby, Esq., United States Attorney for the Northern District of New York
Aurene M. Martin, Acting Assistant Secretary, Bureau of Indian Affairs