

Seneca Nation of Indians

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PRESIDENT'S OFFICE

November 2, 2011

Howard Glaser,
Director of State Operations
Office of the Governor
The Capitol
Albany, New York 12224

Dear Howard:

On February 8, 2011, I sent a letter to Governor Cuomo expressing our desire to restore a flow of funds to the casino "host" communities through direct payments by the Nation. The letter requested confirmation from the Governor's office of the State's willingness to facilitate direct payments by the Nation to the host communities. Thank you for your letter yesterday, responding to my letter on the Governor's behalf and confirming the State's position that it is now willing to facilitate "through legislation or otherwise" the Nation's ability to restore the flow of funds to the host communities through a direct payment system. I understand that several State Legislators continue to favor legislation to make this a reality and I look forward to working with them and your office to make this a possibility.

I must point out, however, that I was surprised to see the reference in your letter to the purported commencement of arbitration by the State some eleven months ago. As we discussed at our August 2, 2011 meeting, the State has yet to meet and negotiate with the Nation in good faith concerning the exclusivity dispute—a mandatory requirement under the Compact before proceeding to arbitration—and has never provided the Nation with a written analysis of its position on the exclusivity breach issue, notwithstanding the State's commitment to the Nation to provide this written analysis back in October of 2010. While we have had two staff level face-to-face meetings to discuss compact matters since then, the last one having occurred on September 22nd, the State has yet to meaningfully respond to the Nation's proposed terms, or alternatively, to provide the Nation with a good faith offer to settle the matter.

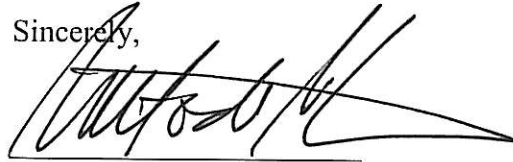
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During our call last Thursday you presented some conceptual terms geared towards a possible settlement of the matter and promised to get those terms to us in writing the following day, but you have yet to do so. We can only interpret your letter, coupled with your failure to follow through on last Thursday's commitment as an indication that the State would prefer to arbitrate the matter rather than engage in good faith negotiations as the Compact requires. This is unfortunate.

Because we remain concerned about the issue languishing and the continued lack of meaningful progress in negotiations, coupled with the adverse impacts to the host communities, we are willing to waive the requirement for good faith negotiations to allow the matter to proceed swiftly to arbitration. In connection with the arbitration, we will be asking for an expedited briefing schedule and we trust the State will consent to an expedited briefing schedule and will promptly reply to discovery requests so that we can ensure a prompt resolution of the exclusivity matter.

The Nation and the local host communities have waited long enough for this problem to be negotiated by the Governor's Office the last two years. An expedited arbitration process will at least provide the possibility of relief in the very near future.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Odawi Porter", written over a horizontal line.

Robert Odawi Porter
President