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GAMING IN ROCHESTER AND NEW YORK STATE
Timeline & News Briefs
(November 2011)

1988:

- Indian Gaming Regulatory Act (IGRA) becomes law. IGRA charges federal government with reviewing gaming compact agreements, but reportedly prohibits states from using casino “taxes” as a source of income; thus providing no guidance on potential revenue-sharing agreements.

1993:

- Turning Stone Casino opens near Syracuse after Oneida tribe led by controversial leader Ray Halbritter signs pact with Cuomo administration. The State also signs operating agreement with Mohawks at Akwesasne Reservation for a U.S.-Canadian border casino. There are no revenue-sharing agreements in either case.

2000:

- Pro-gaming faction captures Seneca Nation leadership at tribal elections.

2001:

- Pataki administration calls for expansion of gaming facilities in New York State. Casino-style gaming is illegal in NYS with exception of six Native American casinos and eight racetracks.
- NYS Supreme Court Justice Joseph Teresi rules that 1993 state/tribal compact allowing St Regis Mohawks to open Akwesasne Mohawk Casino was illegal because it did not have state legislative approval. Casino is allowed to remain open pending results of appeal.
- U.S. District Court Judge Neal P. McCurn rules that the state had illegally acquired 64,000 acres of Finger Lakes region reservation land from the New York Cayugas and Seneca-Cayugas in the late 1700s. McCurn awards the tribes a joint settlement of \$247.9 million.
- **October:** Law passed allowing Seneca Nation and other tribes to build casinos in Catskills (3) and Western New York (3), as well as permitting video slot machines at horse racing tracks. Legislation also allows state to participate in “Mega Millions” multi-state lottery. Senecas had

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“won back” large tracts of land in Federal Court and reportedly only dropped claim for Grand Island, N.Y. after compact agreement allowed them to build casinos in Buffalo and Niagara Falls.

- Senecas reportedly claim to have special privilege with Federal government that allows for fast-track passage of compact agreements. Generally, it takes federal government two to four years to approve a compact.

2002:

- Quinnipiac University poll shows broad public support for new casinos when revenues are tied to school financing or tax relief.
- One news article reports Turning Stone Casino near Syracuse clearing profit of \$70; a second reports \$180 million. The Casino employs 2,000 and has payroll of \$50 million.
- **Fall:** Seneca-Cayugas purchase 229 acres of land at Aurelius, Cayuga County with stated goal of opening bingo hall.
- **November:** With election victories in Tennessee and North Dakota, 48 of 50 states have commercial or charitable gaming.

2003:

- Seneca Niagara Casino opens on January 1st. Casino is built with loan agreement backed by Malaysian billionaire Lim Kok Thay. Loan's interest rate is reportedly 29% and is adjustable upward.
- Regional casino analysts estimate Rochester traffic accounts for 9-15% of traffic in Turning Stone and Niagara Falls casinos.
- NYS legislature votes during 2003 to charge Executive branch with collecting taxes on sales made by American Indians to non-Indians. Anticipated income would reportedly total as much as \$330 million in 2004.
- **April:** Pataki administration and Attorney General Spitzer assert in letter to National Indian Gaming Commission (NIGC) that Seneca-Cayugas of Oklahoma have “no right to conduct gaming on Aurelius land”.
- **June:** State Court of Appeals issues split decision in challenge against Pataki administration's 2001 legislation allowing expanded state-sponsored gaming operations. Court rules that executive branch needs legislative approval of Indian gaming compacts. Sets aside constitutional question in anticipation of Appellate panel decision. Ruling asserts that 1993 Cuomo-administration operating agreement with Mohawks at Akwesasne Reservation is thus illegal because it did not have state legislative approval.
- **June:** Seneca Nation announces plan to develop third casino in Buffalo Convention Center. However, plan is withdrawn when business leaders reportedly claim it would “kill” convention business. A second WNY casino is under construction by Seneca Nation on reservation lands in Salamanca.

- **July:** U.S. 2nd District Circuit Court of Appeals upholds 1794 Treaty of Canandaigua, which reserved about 300,000 acres for the Oneidas and parts of the Six Nations Iroquois Reservations. The ruling rebuffs the Town of Sherrills' attempts to foreclose on properties and gather taxes from the Oneidas, saying that the lands the Oneidas have purchased around the Turning Stone Casino were part of their original reservation lands and are thus sovereign.
- **July:** State Supreme Court Justice upholds earlier federal court rulings that casino gaming is allowed in NYS under federal statutes, even though the state constitution has a general prohibition against it. Under compacts with Indian Tribes, the state is allowed to negotiate a share of revenues from slot machines in casinos (not from gaming tables or Class II, video lottery terminals [VLTs]).
- **July:** Seneca Nation announces plan to develop a third WNY casino in Cheektowaga, Erie County.
- **October:** St. Regis Mohawk Tribe withdraws from a tentative land claim agreement with New York State that included a compact for a proposed tribal casino in Sullivan County (Catskills). The agreement would have allowed slot machines there and at the Akwesasne Casino at the St. Regis reservation. A portion of the revenue (25% of slot machine earnings) would have gone to NYS. Only 7 of 24 states with tribal gaming facilities share in revenues.
- **December:** Appellate panel in Albany hears arguments brought by state legislators challenging constitutionality of 2001 legislation permitting expansion of state-sponsored gaming operations.
- **December:** Pataki administration and Oneidas reportedly disagree over revenue-sharing agreement. Pataki says Oneidas have agreed to share revenue with the State in exchange for being allowed to compete for other casino sites. Oneidas reportedly describe administration's efforts to seek share of profits as a "shakedown".
- **December:** Seneca Nation announces intention to break ground in April 2004 for 26-story hotel at Niagara Falls. Project would bring investment totals in Niagara Falls area to \$280 million.

2004:

- Seneca Casino scheduled to open in Salamanca, Allegheny County in May 2004, with a third casino slated for elsewhere in Erie County (Cheektowaga).
- **January:** Seneca Nation Court of Appeals orders \$38 million of revenue sharing slated for the State be held back at Niagara Falls. The Tribal Court want it held until it can be determined if NYS' recent efforts to impose taxes on tribal gas and cigarette sales have violated the casino compact. Nevertheless, funds are transferred to New York State. State receives \$38 million, and Niagara County receives check for \$9.5 million (6.25% of casino's slot machine "take" – 25% of state's 18% share--*see below for compact formula*).

Casino also reportedly spends approximately \$14.3 million in the Niagara Falls community for related goods and services. Compact reportedly does not include "service agreement" wherein Senecas share in cost of new municipal costs. However, in March, *Buffalo News* reports that Senecas have paid for \$2.6 million in police services. Five-member casino commission

charged with determining how to distribute revenues is “heavily weighted with state officials”, according to *Niagara Falls Reporter* newspaper.

Seneca Niagara Casino President Mickey Brown asserts that deal to give City of Niagara Falls steadily escalating percentage of slot “winnings” (18% for 4 years, 22% for 3, and 25% for every year thereafter) arose from earlier compact negotiations in Connecticut. In that case, all revenue was redistributed statewide. The host community, Foxwood, received no special allotment.

- **January:** Pataki Administration again calls for expansion of gaming facilities. Governor also wants 8 more VLTs (five in New York City, three elsewhere in NYS). Estimates that 16 gaming halls could bring in \$2 billion annually.
- **January 28:** Saratoga Raceway in Saratoga County is first of an anticipated eight racetracks to begin offering slot-machine-like gambling. The Saratoga “racino” boasts over 1,300 machines.
- **February:** Democratic State Comptroller Hevesi backs Governor’s gaming expansion plans.
- **February:** Syracuse Judge orders U.S. Dept. of Interior to review decision to recognize the legitimacy of the St. Regis Mohawk three-chief tribal government after other tribal group sues. Ruling could derail Sullivan County casino deal between tribe and Park Place Entertainment concern. Catskill casinos would reap \$1 billion annually, analysts report. Seven tribes (including 1 Canadian and 2 Wisconsin---Oneida & Stockbridge-Munsee) have bought or have options to buy land in Sullivan and Ulster counties.
- **February:** State legislators press for new plan to allow non-Indian casinos in areas already identified as likely Indian-run locations—Catskills and Buffalo. Referendum unlikely until November 2005 as this would require constitutional amendment approval by both State houses. Seneca Nation President Rickey Armstrong says such legislation would endanger revenue sharing plan. New York Times ascribes quagmire to longstanding, “land ownership, taxes, and sovereignty” issues.
- **February:** Five-member Niagara Falls commission announces spending plan for casino revenues. New airport terminal design work is earmarked for \$1 million. Tourism group and Convention Center each get \$1 million. Appointed by the Governor, the commission is composed of a state senator and assemblyperson, a city official, and two others. The governor orders that the money in Niagara Falls is to be spent on “economic development”. Following agreement by the commissioners on the specific spending plan, the money is drawn down from a state fund.
- **March:** Buffalo Niagara Partnership publicly speaks out against efforts to convince Senecas to revisit proposed downtown Buffalo casino.
- **March:** *Buffalo News* reports that Senecas are “close” to reaching deal on purchasing a Uniland-owned development site in Cheektowaga near Buffalo International Airport. Town officials have already expressed interest in casino development.
- **March:** *Buffalo News* reports that confidential documents show Seneca Casino Niagara reaped \$50 million profit in first nine months of operation.

- **March:** Aurelius Supervisor rejects Seneca-Cayugas of Oklahoma's offer to settle Aurelius, Cayuga County bingo hall dispute out of court. Aurelius wants federal government to rule on tribe's sovereignty status, and also wants Seneca-Cayugas and New York Cayugas to agree to a comprehensive settlement to land claim before any settlement would be considered. Seneca-Cayuga's local representative is former state attorney general, Dennis Vacco.
- **March:** Seneca County Board of Supervisors and Cayuga County Legislature meet at Auburn to discuss 20-year-old Cayuga land claim suit. Cayuga County representatives assert that their recent dialogue with Seneca-Cayugas focused on potential for pre-construction agreement. Seneca-Cayugas are also reportedly seeking to build Class III gaming facility in Cayuga land claim area, as well as casinos in either/or both the Catskills and Rochester.
- **March:** George Skibine, Director of Bureau of Indian Affairs Office of Indian Gaming Management, reportedly suggests that revenue sharing agreements for Class III Indian gaming facilities be capped at 10 percent. Skibine points to 1998 IGRA as evidence that tribal gaming proceeds were not to be used as revenue source for states.
- **April:** Table game dealers at Niagara Falls USA casino currently paid \$4.25 per hour and averages tips of an additional \$11 per hour, according to the *Niagara Falls Reporter*. Detroit, Michigan dealers with similar blackjack, craps, and roulette skills earn approximately \$8.25 per hour.
- **April:** Seneca Nation Tribal Council approves purchase of 57 acres in Town of Cheektowaga for 185,000 sq. ft. casino. Located adjacent to Buffalo International Airport, proposed casino will feature 1,800 slot machines. Venture needs US Department of Interior approval, but City of Buffalo and local real estate developer Carl Paladino reportedly threaten lawsuits to stop the Senecas plan, arguing that the Senecas 2001 compact with NYS specifically cited the City of Buffalo as the preferred casino location. Seneca representatives have asserted that "nothing seemed to come to fruition" in that regard, and furthermore that the compact allows the Nation to pursue other locations in Erie County.
- **April:** Slot machine revenues at three New York racetracks reportedly lag behind "conservative" expectations, according to the *Daily Racing Form*. "Racino" slot machines are averaging between \$125-168 per machine in the two and a half months after Saratoga Racetrack first opened. (Operators cite winter weather as primary cause. Stiff competition in upstate New York had already been factored into initial projections.) On the other hand, Nancy Palumbo, director of the state's Lottery Division, described the State's \$18.9 million "take" in the first three months as "a significant amount of revenue". Racinos in Delaware and West Virginia reportedly average wins in excess of \$300 per machine.
- **April 23:** US District Court Judge David N. Hurd rules in favor of Cayuga Indian Nation of New York in its dispute with Union Springs, NY. Hurd denies Union Springs request for a temporary restraining order to halt Cayuga's electronic bingo hall project, and he also rules that the proposed hall can not be regulated by the village, town, or county. All three municipalities appeal ruling to 2nd Circuit US Court of Appeals. The ruling is subsequently upheld on May 26th.

- **May:** Seneca Nation breaks ground on Seneca Niagara, 600-room hotel adjacent to Seneca Niagara Casino.
- **May 9:** Zogby International of Utica polls 702 Erie County/Buffalo residents regarding siting of 3rd Seneca Nation casino. Findings show preference for downtown site over proposed Cheektowaga location, and majority of respondents report “feeling shut out of decision-making process”.
- **May 17-24:** Pataki administration team briefs Cayuga and Seneca County representatives on proposed settlement deal with Cayuga Indian Nation, wherein the tribe would reportedly pay each county \$3M annually and end 64,000 land claim in exchange for State approval of its efforts to open Las Vegas-style casino in Monticello.
- **May 28:** Class II electronic bingo hall opens at Union Springs, NY. Second hall is scheduled to open in June 2004 at Seneca Falls.
- **June:** Seneca Nation Mortgage Program receives \$10 million capital infusion from two Seneca casinos. The mortgage program was established in April 2004 to aid Senecas and other American Indians who cannot obtain mortgages or rehabilitation loans from non-native banks because the banks cannot legally foreclose on Indian land.
- **June 3:** NYS Senate overwhelmingly approves Pataki administration plan to create gambling commission to regulate horse tracks as well as “all facets of legalized gambling”. According to *Newsday*, “the legislation would also empower the commission to temporarily operate a race track or VLT hall...”
- **June 10, Across the Border:** Niagara Fallsview Casino Resort at Niagara Falls, Canada draws a reported 153,000 visitors in first five days of operation. Adjacent Casino Niagara draws 100,000 during same time frame. (Back across the border, Seneca Niagara Casino drew 400,000 a month when last reported.)
- **June 10:** Pataki administration reportedly signs a memorandum of understanding with Cayuga Indian Nation that would pave the way for the tribe to proceed with plans to build casino complex at Monticello. In addition to the Sullivan County casino development rights the tribe would begin receiving annual financial payouts originally awarded to it and the Seneca-Cayugas of Oklahoma in 1980. For its part, the tribe reportedly agreed to establish “price parity” with neighboring non-Indian enterprises at any of the commercial sites it develops on lands it controls in the northern Finger Lakes area. (To that point, the Cayugas and Seneca-Cayugas were awarded 64,000 acres by the courts in 1980, and this memorandum would allow the Senecas to purchase and exercise sovereignty over a maximum 10,000 acres.)
- **June 14:** Protestors at Seneca Falls office of State Senator Michael Nozzolio call for NYS to allow judicial appeal process to continue regarding 1980 land claim suit before it moves to forge deals with Cayugas or Seneca-Cayugas of Oklahoma.
- **June 16:** State Supreme Court Judge Joseph P. Makowski rules that compact language allowing Senecas to propose a casino site outside of Buffalo was “unconstitutional”, according to *Buffalo News* report. The new proposal, the judge ruled under the memorandum of agreement, went beyond the mandate of the state legislature and would need that body’s

approval. Suit by so-called “Huron Group” led by Buffalo Mayor Masiello, developer Carl Paladino, and “others” was brought against NYS, the Town of Cheektowaga, and Uniland Partnership, the Cheektowaga property owner. The judge’s ruling at least temporarily halts efforts to build the Cheektowaga casino.

- **June 16-20:** Seneca’s President Rickey L. Armstrong reportedly suggests that Senecas might not build a casino in Erie County if they are obliged to build in Buffalo. His comments reportedly prompt Buffalo Mayor Masiello to assert that Buffalo may begin negotiations with other tribes if Senecas fail to meet August 2005 deadline to start casino construction. The 2001 compact identifies the Tonawanda Band of Senecas and the Tuscarora Nation as potential operators. Both of these tribes are reportedly currently opposed to gambling.
- **June 20:** Concept of downtown Rochester casino is fueled by reports that Pataki Administration is negotiating with Seneca-Cayugas of Oklahoma to resolve their portion of 64,000-acre land claim. The D&C reports that the deal would reportedly place 3,000 VLTs in two iconic Rochester facilities—the Sibley Centre Complex and the forty-year-old Midtown Plaza. Rochester’s mayor, William A. Johnson, and Seneca Nation leaders lambast the reported plan, with the Senecas disputing the Seneca-Cayugas’ rights to “privileges in New York State”.
- **June 22:** Cayuga County Legislature votes 13-2 in support of the concept of a negotiated settlement with the Cayuga Nation, while noting that the memorandum “still needs a lot of work”.
- **June 28:** Supreme Court Justice James W. McCarthy issues decision at Oswego court asserting that the Turning Stone Casino is operating illegally. McCarthy’s ruling says that former governor Mario Cuomo violated the doctrine of separation of powers when he signed 1993 compact with Oneida Nation without legislative approval.

The Verona casino and resort are expected to remain open during any appeal process, or, if as anticipated, the New York State legislature retroactively ratifies the agreement. In mid-June the legislature retroactively ratified a similar agreement signed in 1993 with the St. Regis Mohawk tribe in northern NYS. (*see June 2003, above, for earlier ruling*)

- **June 28:** The United States Supreme Court announces its intention to “clarify when governments can tax Indian property”, thus agreeing to hear the Town of Sherrill’s appeal of a lower court decision barring the town from taxing a textile plant and gas station-convenience store owned by the Oneida Indian Nation. (*see July 2003, above, for earlier ruling*)
- **June 30:** Rochester developer and mall magnate Thomas C. Wilmot of Wilmorite Co. reveals plans for a \$500 million, 35-acre casino complex. Downtown entertainment facility would include current Sibley and Midtown Plaza sites. Wilmorite anticipates teaming with Seneca-Cayugas of Oklahoma tribe.
- **July:** Greater Rochester Visitor’s Association (GRVA) endorses “concept” of gaming in Monroe County as a potential attraction for conventioners and visitors. GRVA Board calls for “widespread community dialogue” and commits itself to “appointing a task force to review those [differing] impacts when any legitimate gaming proposal and location is presented”.

- **July 7:** Appellate Division of State Supreme Court rules that using video lottery terminal revenues for non-educational purposes is unconstitutional. NYS to appeal to Court of Appeals, thus allowing “racinos” to stay open in the interim.
- **July 9:** Senate Majority leader Joseph Bruno reportedly tells Rochester *Democrat & Chronicle* editorial board that it is unlikely that NYS lawmakers would approve a Class III casino facility in Rochester. He cites Seneca Nation exclusivity pact and anticipates objections from state lawmakers.
- **July 16:** NYS officials announce that they are not negotiating with the Seneca-Cayugas of Oklahoma about a Rochester casino.
- **July 19:** Governor Pataki asserts that without “aggressive” local support that NYS efforts on behalf of a Rochester casino is unlikely.
- **July 21:** Zogby International of Utica polls 524 Monroe County/Rochester residents on behalf of *Democrat & Chronicle*. Findings include 51% in favor of casino, 37% in opposition, and 11% unsure. Most dramatic support comes from 18-29-year-olds (72%) and Hispanics (82%). Men at 61% in favor outweigh women at 44%. Respondent both inside and outside of City limits overwhelmingly favor downtown site. Job creation seen as main benefit, with “crime and other social impacts” cited as “main problems”.
- **July 23:** Seneca Nation and Connecticut-based Klewin Building Company break ground on 26-story casino and spa hotel in Niagara Falls, NY. Tribe hopes to open new 718,000 square foot facility in 18 months.
- **August 1:** NYS 2nd Circuit Court upholds May 2004 ruling that allows Cayuga Nation to continue to operate “high-stakes” bingo hall in Union Springs. The village’s bid to temporarily halt its operation is rejected by a three-judge panel. Union Spring’s case hinged on a related case in which U.S. District Judge David N. Hurd had declared the bingo hall “Indian country” and thereby exempt from local and state laws. Federal Appeals Court ruling in the Hurd case is expected as early as September 2004.
- **August 2:** *Mid Hudson Valley News* reports that Orange County Democratic legislator Jeffrey Berkman and Goshen Mayor Scott Wohl have urged NYS and the Orange County chief executive to establish “impact funds” to offset anticipated increased expenditures from three proposed Catskill casinos.
- **August 4:** Cayuga Nation of NY abandons Catskill casino deal with NYS in objection to Seneca-Cayuga of Oklahoma’s plans to open casino in Sennett, NY, as well as unresolved legal questions. NYS issues statement that it will now let higher courts decide land claim suits.
- **August 10:** Rochester developer Wilmorite urges community to lobby NYS on behalf of downtown casino proposal.
- **August 11:** Local legislators declare plan to add VLTs to Rochester-Toronto fast ferry “dead” after NYS Assembly leaders refuse to support NYS Senate bill in favor of plan.

- **August 13:** Traditional Oneida community reportedly submit new evidence to BIA challenging legitimacy of Ray Halbritter’s tribal leadership at the time he negotiated a gaming compact with NYS in 1993. Previous Halbritter opponents allegedly lost tribal benefits and were in some cases reportedly unenrolled from the tribe. A Halbritter spokesman dismissed the recent claims as “garbage and the same old stuff”.
- **August 20:** Seneca-Cayugas of Oklahoma announce that they have submitted a settlement proposal to NYS to resolve outstanding land claim litigation. Tribe offers to “terminate all ongoing litigation and relinquish any interest it holds in the February 2001 judgement” in exchange for a gaming compact in the Catskill region. As part of the settlement the federal government would take into trust property in the Catskills for the benefit of the tribe.

Seneca-Cayugas of Oklahoma designate Empire Resorts, owners of the Mighty M raceway at Monticello, NY, as the tribe’s exclusive casino development partner for the Catskill region. Empire Resorts had earlier announced plans for a \$500 million, Class III, American Indian casino on a site adjacent to Monticello Raceway. The Cayuga Nation had been cited as Mighty M’s likely partner until their withdrawal from the agreement in July 2004. The *Mid Hudson Valley News* reports that NYS is in negotiations with the Seneca-Cayugas of Oklahoma.

- **August 30:** *Buffalo Business First* reports that the Seneca Nation is in the preliminary discussion stages regarding the formation a Seneca bank or credit union.
- **September 23:** NYS allows guidelines on collecting gasoline- and cigarette-related taxes from Indian tribes to expire. Meanwhile, the United States Supreme Court is expected to rule in its next session (beginning in the Fall of 2004) on the Town of Sherrill’s challenge to the Oneida Indian’s claims of sovereignty and resultant tax exemptions (*see June 28, ’04 above*).
- **October 1:** The 19-story Tower at Turning Stone hotel opens, becoming the tallest building between Albany and Syracuse. The opening puts a spotlight on the ongoing \$308 million expansion of the Turning Stone Resort and Casino.
- **October:** Harrah’s Entertainment Inc. releases report suggesting that Western New York could support additional casinos, noting that the Buffalo-Niagara regions 30% “casino participation rate” fell well below a national average of 40%. According to the report, demand for casinos continued to outpace supply, and the new Seneca Niagara Casino enjoyed 4 million visitors in its first year of operations, or “roughly 33 percent more” than originally projected.
- **November 2:** The Seneca Nations of Indians elect Barry Snyder to replace outgoing president Ricky Armstrong. Snyder received 52 percent of the vote in a race against two opponents, Cyrus Schindler and Robert Jones.
- **November 12:** Pataki administration announces land claim settlement agreement with Seneca-Cayugas of Oklahoma wherein the tribe agreed to end their lawsuit, relinquish any property in their land claim area, and reimburse NYS any land claim settlement monies totaling up to \$350 million. In exchange the tribe would receive a NYS gaming compact for a casino at the Concord Resort in Sullivan County. Preliminary reports suggest a revenue-sharing agreement comparable to the “25 %” arrangement between NYS and the Senecas of Western New York.

- **November 19:** Pataki administration signs a land claim settlement agreement with the Cayuga Indian Nation of New York, providing the tribe with a casino site at Monticello Raceway in Sullivan County and rights to 2,5000 to 10,000 acres of land around the northern end of Cayuga Lake. In exchange, *Newsday* reported that the tribe agreed to allow NYS to continue appealing the \$247 million judgment, but sets a \$150 million cap if the award is upheld.
- **November:** Citing the “significant influence of non-Seneca entities and individuals”, the Seneca Indian Nation Tribal Council approved the launch of an independent investigation into the financing and construction of its casinos. Tribal officials have explained their borrowing decisions in the past by citing the unwillingness of conventional financiers to loan money for projects on sovereign land which can’t be foreclosed on (*see first 2003 entry above*).
- **December 7:** Pataki administration broadens request for Catskill-area casinos from three to five while announcing land claim/casino agreements with the Oneida Tribe of Wisconsin and the Stockbridge-Munsee Community Band of Mohican Indians, also of Wisconsin. The agreement with the Oneida provides them with rights to build a casino on 88 acres of land at Mamakating, Sullivan County off of Rt. 17. The Mohican deal allows that tribe to build a casino on 333 acres in Bridgeville, Sullivan County. In return for the gaming compact the tribes agreed to drop their land claims and “remit state and local tax collections at their casinos”. (In the Oneida case, the tribe reportedly agreed to end a land claim for 300,000 acres in Central New York.)

Including an earlier agreement with the St. Regis Mohawks that allows them to build a casino at Kutsher’s Sports Academy in Sullivan County, the Pataki administration has now reached agreement on five Catskill-area casinos, two more than currently allowed by NYS.

Meanwhile, the percentage of Sullivan County residents who favor the introduction of the casinos has reportedly fallen from 62 % in 2001 to 49% in 2004. The decline in support comes despite projections of 30,000 new jobs and \$75 million dollars in direct casino revenues from the tribes (a figure that does not include new jobs and taxes from commercial growth). Likely reasons include estimates of 20,000 new students in the Sullivan County public school system, \$65 million in new costs, and 2.7 million more cars on local roads (for just three casinos).

For its part, a Pataki administration spokesman described the four recent agreements as “an historic opportunity to resolve the major land claims in New York and ...effectively end decades of unrest and uncertainty for hundreds of thousands of property owners and taxpayers in the various land claim areas around the state”.

- **November - December:** Accusing the Pataki administration of “flip-flopping” regarding negotiations with out-of-state tribes, the New York Oneidas underwrite an anti-Pataki television advertising campaign, and in a split vote the tribe’s Council repudiates the November land claim settlement. Meanwhile, the Seneca Nation of Indians calls on the Pataki administration to reconsider its decision, suggesting that the new agreements would “undermine the relationship between NYS and its indigenous tribes”. A Pataki spokesperson defended its position by noting that all three of the out-of-state tribes have established land claims in NYS and could potentially win expensive court settlements.

- **December 31, Year in Review (Seneca Gaming Corp. Financials):** According to figures reportedly included in a Securities and Exchange Commission filing, the Seneca Gaming Corp. –which owns the Seneca Allegany Casino in Salamanca and the Seneca Niagara Casino— stated gaming revenues of \$337.5 million for the fiscal year Oct. 1, 2003, to September 30, 2004. In its second full year of operation, the Seneca Niagara Casino took in \$289.6 million, a 57% increase in gaming revenues. Meanwhile, the Salamanca Casino reported revenues of \$47.9 million for its first five months of operations. Non-gaming revenues improved from \$21 million in 2003 to \$43.2 million in 2004, reflecting food, beverage, and retail sales activities. (In 2004 revenues from such non-gaming aspects of Las Vegas casino facilities --\$6 billion in all--surpassed gaming revenues of \$5 billion.)

The Seneca Niagara Casino enjoyed an estimated six million visitors in 2004 and enrollment in its Seneca Player’s Club reportedly totaled 575,000 members.

For its part, the City of Niagara Falls’s share of the casino revenues is to total approximately \$12.5 million, or approximately \$2 million more than in 2003. City monies have been earmarked or already spent on the Niagara Falls Airport; the Heart Center at the Memorial Medical Center; the Tourism & Convention Corporation; and the City School District.

2005:

- **January 1:** The 26-story Seneca Niagara Spa Hotel is scheduled to open on New Year’s Eve, December 31, 2005, according to a report in the Tonawanda News. By late December 2004, 23 floors of steel framing had been completed.
- **February 3:** NYS announces an omnibus bill---Program Bill Six---to settle four different land claims. According to Indian Country Today, it also includes a “framework for resolving a bitter dispute over the collection of state sales and excise taxes on reservation-based transactions with non-Indians. The arrangement proposed by St. Regis Mohawk negotiators would preserve ancestral reservations from state taxation attempts.”
- **February 10:** Sullivan County legislators vote 6 to 3 in favor of NYS plan to locate five rather than three casinos in the region.
- **February 13:** Albany Times-Union reports that a California congressman, Rep. Richard Pombo, plans to introduce federal legislation that would prohibit native American tribal governments from crossing state lines for gaming purposes.
- **February 23:** Responding to reports that the Director of the NYS Department of Taxation and Finance had begun drafting regulations to tax reservation sales, the Pataki administration reportedly agreed that state legislation of 2003 “required the action”.
- **February 25:** Indian Country Today reports that Cayuga Nation Council lawyer Joseph Heath has claimed to have begun efforts to unite factions of the Oneida Indian Nation and Seneca Nation of Indians with the ultimate goal of Iroquois Nations unity against NYS proposed land claim settlement.

- **February 28:** Hearings on proposed casinos in Sullivan County open in Albany. Two other sessions are scheduled: March 3 in Sullivan County and March 9 at Cayuga County. Expert testimony is expected on land claims, as well as impacts of casino development on transportation, affordable housing, education, social services, and public safety.
- **March 29:** Asserting that continuing to allow the Oneida Nation to take reacquired land off of the City of Sherrill's tax rolls and removing it from local jurisdiction would "seriously disrupt" the "existing expectations of the non-Indian community", in an 8–1 ruling the United States Supreme Court reversed a 2nd Circuit Court of Appeals ruling that had earlier favored the Oneidas in its land claim and taxation fight with Sherrill. While the Oneida's 32-acre reservation and the property on which Turning Stone Casino sits would remain tax-exempt, the High Courts' ruling validated Sherrill's having kept an Indian-owned gas station, t-shirt factory, and other lands on its tax rolls, albeit without the ability to collect.
- **June 28:** In a 2-1 decision, the 2nd US Circuit Court of Appeals in Manhattan rejected Judge McCurn's 1994 determination that the "passage of time" was not an issue regarding the Cayuga Indian Nation's land claims. Echoing the March 29th US Supreme Court decision in the Town of Sherrill and the Oneidas, the Circuit Court threw out the Cayuga's claim to 64,000 acres of land in Seneca and Cayuga counties, as well as a \$247.9 million award that McCurn had earlier upheld for the Cayugas and Seneca-Cayugas of Oklahoma. The Pataki administration hailed the Circuit Court's ruling.
- **June 29:** Saying that the existence or the non-existence of a land claim does not negate the 2001 New York State legislation that authorized up to three Native American casinos in the Catskill region, Empire Resorts Inc. affirms that it is continuing its efforts to develop a casino for the Cayuga Nation.
- **July 19:** With analysts pointing to upcoming December 9th "compact expiration date", the Seneca Nation of Indians "reaffirm[ed]" their desire to open a casino in downtown Buffalo, thus reigniting speculation about the potential site, with either Main Place Mall or a second property adjacent to the HSBC Bank Atrium Office Building seen as good candidates to be retrofitted for gaming and entertainment.
- **August 2005:** Representatives of the Seneca Nation and the City of Salamanca assert that casino revenues have added fuel to the local economy by creating jobs and increasing property values. The Senecas two Western New York casinos had payroll expenditures of \$72 million in 2004, resulting in an additional \$7 million in federal income tax and \$2 million in state income taxes. Meanwhile, Governor Pataki recently signed a bill "raising the local share (of slot machine revenue) with the State from 15 percent to 25 percent".
- **September 1:** *Buffalo News* reports that the Seneca Nation has narrowed its casino site search to three locations in downtown Buffalo and will announce its final choice by the end of the month. The Senecas are expected to spend approximately \$200 million to "retrofit an existing building or construct a new one". The roughly 120,000 square foot facility will employ 1,000 people and include an on-site restaurant.

Meanwhile, the *News* also reported that a State Supreme Court justice had thrown out a Niagara County's claim of 75 percent of the local share of the Seneca Niagara Casino revenue, asserting that the lawsuit was "premature" as the State legislature had not yet allocated the \$11.2 million

slated for the locality. The “sharing dispute” reportedly arose after the City of Niagara chose to spend revenues allocated the previous year on pothole repairs rather than countywide projects. The previously agreed upon percentages were 60/40.

2006:

- U.S. Congress introduces legislation to “protect their own casino interests from those tribes that are outside reservations” and instructs the Bureau of Indian Affairs to both tighten regulatory policy and oversight of casino approvals and implement new, “more transparent” procedures that would allow local communities to have more influence on the siting of casinos in their jurisdictions. Tribal leaders respond with concern that such efforts would diminish tribal sovereignty.
- U.S. Congress bans financial institutions from transmitting payments to and from internet gambling operations, thus effectively banning on-line gambling.
- In the 18 years since the Reagan administration passed the Indian Gaming Regulatory Act (IGRA, see above) and created the National Indian Gaming Commission to regulate Indian gaming, revenues from those operations had reportedly climbed from approximately \$100M in 1988 to a reported \$16.7B by the end of 2006.

2008:

- **July 2008:** The New York State Lottery Division reports that seven years after the NYS legislature approved the introduction of Video Gaming Machines (VGMs) at NY racetracks, all tracks with the exception of Aqueduct Racetrack had installed them. Widely seen as potential site for a full-scale gaming facility, Aqueduct was expected to have the machines in operation by mid-2009. The VGM legislation states that the machines are “designed in such a manner as to pay prizes that average no less than ninety percent of sales” and like scratch-off lottery tickets “have a predetermined number of winners”.

2009:

- **January:** The Seneca Indian Nation asserts that New York State’s approval of slot machines at its racetracks and the allowance for “Moxie Mania” video terminals in bars violates an exclusivity clause in their compact and suspends casino profit sharing with the State.

2010:

- **June 2010:** The 1,300 member Shinnecock Tribe located in the Southampton area of Long Island are recognized by the U.S. Government, bringing to conclusion a 32-year legal battle that results in their 750-acre reservation attaining semi-sovereign nation status and prompting speculation that the tribe would recommence efforts to open a casino either on the reservation or at another location. In 2003 the Tribe had broken ground on a casino only to have local officials successfully petition the Federal government for an injunction to stop the development.
- In follow-up to **March 2005** rulings, the Second Circuit Court bars local governments from issuing tax foreclosure suits against the Oneidas for unpaid taxes on lands that were not part of their original reservation but had been subsequently reacquired.

- **June 2010:** The *Buffalo News* reports that Securities and Exchange Commission disclosure records show that between October 1, 2009 and June 30, 2010, \$4.6B had been gambled and \$76M in other monies spent at the three Seneca casinos, with \$392.9M in losses. The Senecas reportedly extended \$42M in “giveaways” to capture a profit after expenses of \$81.3M.

Meanwhile, Seneca President Robert Odawi Porter told *The Buffalo News* that the nation has decided against a 2007 proposal to build a \$333 million casino that would include 90,000 square feet of gambling space, 2,000 slot machines, a 22-story, all-suite hotel, four restaurants, a full-service spa and salon, and retail and other amenities. Porter said the nation will not build a hotel on its sovereign site and that any restaurants put up on the property would look to complement, not duplicate, the kinds of restaurants that exist, or are planned, nearby. The Seneca Gaming Corp. also will look, for the first time, to include businesses off casino property in its Players Club program, which gives discounts on food, beverages and hotel rooms to bettors.

2011:

- **August:** Following an announcement by the Cuomo Administration that it was exploring the possibility of legalizing private, non-Indian casinos, a *Rochester Business Journal* poll of 660 readers reveals a “nearly two-thirds – 63 percent -- favor(ing) legalizing, non-Indian casino gambling in New York”. Any new facilities would join the current line-up of five Indian-run casinos (Akwesasne in northern New York, Turning Stone, and three Seneca facilities) and the state’s own eight (8) “racino” facilities.
- **September:** Assembly Speaker Silver and Senate Majority Leader Skelos reported to back adoption of casino legislation with emphasis on New York City area facility and siting limited to tourist destinations and not inner cities.
- **October:** Continuing a series of settlement efforts and suits highlighted by the New York’s tribes first substantial court defeat in **March 2005**, the US Supreme Court denies a Oneida Indian Nation and US government petition for “certiorari” (certiorari is most often seen as the writ that the [Supreme Court of the United States](#) issues to a lower court to review the lower court’s judgment for legal error (reversible error) and review where no [appeal](#) is available as a matter of right...source: wikipedia)
- **US Congressional House Financial Services Committee** approves a bill “effectively” legalizing internet poker and other nonsports betting, thus overturning a controversial 2006 federal ban that critics at financial institutions had decried as “poorly drafted” and the reason that such gambling had been driven to off-shore and untaxable sites. If passed the new bill would allow the Treasury Department and Internal Revenue Service to license, regulate, and ultimately tax internet gambling operations – with one estimate putting anticipated 10-year revenues at \$42B.

- **November:** Scuttling an anticipated deal wherein it had been expected to recommence paying casino revenue payments to NYS and its casino-host communities, on November 3rd the Seneca Indian Nation voted instead to seek expedited arbitration of the dispute. The Nation asserted that the State had “negotiated in bad faith” when it included a paragraph in a settlement letter blaming the Nation for the “dragging out the issue”. Central to the case is approximately \$330M in arrears that the Nation has withheld since January 2009 when it complained that the opening of VLTS at state-owned racinos had violated an exclusivity clause in its compact. The State retorted that it had sought similar arbitration hearings in late 2010 only to find the Nation “unresponsive”. (An initial tranche of \$66M had been expected to be released.)

The information herein is presented to the best of our knowledge at the time of publication. Please contact the Rochester Downtown Development Corporation at rddc@rddc.org with any information or corrections.