



**NATIONAL
INDIAN
GAMING
ASSOCIATION**



INDIAN GAMING UPDATE

National Indian Gaming Association - On Behalf of Ernie Stevens, Jr. Chairman January 2009

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Dear Friends,

Sagoli Swakweku – Greetings from Washington, D.C.!

On March 4th, the National Indian Gaming Association hosted our annual Winter Legislative Summit in Washington, D.C. Tribal leaders representing the Member tribes of NIGA came together and addressed issues critical to the Indian gaming agenda for 2009. The gathering was also an opportunity to meet various members of Congress.

Historically, the NIGA Winter Legislative Summit is one of two held each year and is part of a series of regular informational and strategy meetings scheduled throughout the year to keep our Member Tribes and Associate Members updated and prepared regarding developments related to our industry. These strategy sessions have proven to be a catalyst to reaching consensus and developing a united front as we continue to withstand the challenges in defending and protecting our industry.

This year, our discussions centered on addressing the immediate issues already considered threats to tribal gaming, including the Employee Free Choice Act and others proposed before the 111th Congress. We also discuss forging a new regulatory partnership between Tribes and the Federal Government after the National Indian Gaming Commission (NIGC) had one of its most aggressive regulatory agendas in recent years.

In 2008 the NIGC sought to finalize four new Class II gaming regulations that would have negatively impacted Indian country. They also proposed to redefine the definition of “sole proprietary interest” under IGRA and finally, they passed regulations requiring Tribes to submit paperwork on the trust status in their own lands. However, I am proud to say that through the consolidated efforts of our Member tribes, Tribal leaders, and many others who support us we remained strong.

One of the most important mechanisms to our success is to diligently foster solid relationships with Congress and the President. As we continue to move our 2009 gaming agenda, there is great hope because of the willingness by the Obama Administration to be in full partnership with Indian country. With the responsiveness and openness by President Obama comes a new opportunity to address the needs of Indian Country, and now that his administration is fifty days into the first one hundred, it is time for Indian country to impress upon the importance of this promise of partnership and move forward together, not only with the Obama Administration but with the members Congress.

We have seen tremendous success through these working sessions and we must continue to look upon these moments as opportunities to coordinate our efforts in a united front because there is still so much to accomplish to solidify the future of all our Indian communities and ensure that the vital services to our people continue to be met by protecting the Indian Gaming Industry as one.

I hope you enjoy the latest edition of the Indian Gaming Update!

Ernest L. Stevens, Jr.



Chairman Stevens joins NIGA Board Member Andy Ebona and Alaska Senator Mark Begich (D) at the NIGA Legislative Summit in Washington, D.C.

NIGA CHAIRMAN ADDRESSES AZ TRIBES AND AFFILIATED TRIBES OF THE NORTHWEST AT ANNUAL CONFERENCES

National Indian Gaming Association (NIGA) Chairman, Ernie Stevens, Jr., focused on economic and legislative issues currently impacting Indian gaming in his recent update to Arizona tribes at this year's 2009 Arizona Desert Classic Gaming Conference in Fort McDowell, Arizona, hosted by the Arizona Indian Gaming Association, and the Affiliated Tribes of Northwest Indians Winter Conference in Tulalip, Washington, hosted by the Affiliated Tribes of Northwest Indians.

While Indian Country remains concerned about how the faltering state of the economy will affect Indian gaming, Chairman Stevens encouraged tribes to remain strong yet cautious in their journeys toward progress.

Speaking of the Obama Administration, Stevens told the crowd, "We have great potential in this new administration and are going to continue to build upon that, but the priority has to lie in the fact that we still have a lot of work to do. Stevens continued, "While many tribes have seen success through their tribal gaming operations, many still live in impoverishment and have always struggled, even in better times for America. We must continue to make it a priority to strengthen all communities throughout Indian country. We have to be supportive of one another, we have to work harder, and we have to work together, now more than ever."

Despite the troubled economy, Stevens reminded tribes that economic struggles are a familiar obstacle that Indian Country has continued to outlast. "The whole country is dealing with what Indian Country has dealt with for so many years," said Stevens. "We've dealt with tough economies throughout all of our history. America, welcome to our world."

Stevens also stressed the importance of empowering Indian businesses as a key component of promoting economic development in Indian Country.

"In order for us to be successful, we have to empower Indian business," Stevens advocated. "We must be committed to the continued development of a true Indian Country economy by funneling more tribal spending to native enterprises, and we can do that with the American Indian Business Network (AIBN). If

you work in Indian gaming you have a responsibility to promote economic development in Indian Country and stand firm for tribal government."

NIGA established the AIBN to serve as a valuable resource that connects diverse procurement opportunities through with the broad spectrum of Native American product and service providers.

Steven's address also touched on another concern within Indian Country: the Employee Free Choice Act (EFCA).

"The problem that lies in this law is that, despite the fact that our industry is sound when it comes to employee relations, it does not recognize tribal governments," said Stevens. "Currently, federal, state, and local governments are exempt from this law, but there is no recognition of tribal governments. We'll oppose any law that does not treat tribal governments the same as state and local governments."

EFCA is legislation that aims to amend the National Labor Relations Act (NLRA) and would establish a new system to enable employees to form, join, or assist labor organizations through a secret ballot provision not currently available under law. Unions are dissatisfied with the NLRA because they believe that it does not fairly support fair efforts to unionize the labor force.

In Arizona, Stevens ended his address by dedicating his speech to his father

and mentor, Ernest Stevens, Sr., who also served as life-long advocate for tribal sovereignty. Stevens, Sr. was a strong proponent of tribal recognition and an everlasting advocate in promoting economic development advancement at all levels throughout Indian Country. As the NIGA Chairman was preparing for his address to the Arizona tribes Stevens suddenly remembered the day was his father's 77th birthday and was moved to take the opportunity to acknowledge is father for tirelessly dedicating himself to work on behalf of Indian country with integrity. Stevens acknowledged that his father is one of the greatest influences in his life and that empowers him.

Stevens, Sr. now resides in a nursing home on the Oneida Reservation, in Oneida, Wisconsin

"The whole country is dealing with what Indian Country has dealt with for so many years. We've dealt with tough economies throughout all of our history. America, welcome to our world."

Ernie Stevens, Jr., NIGA Chairman



Chairman Stevens addresses Tribal leadership and conference attendees at the Arizona Desert Classic Gaming Convention in Fort McDowell Arizona

NIGA AND NCAIED SIGN AMERICAN INDIAN BUSINESS NETWORK MOU AT RES 2009



Chairman Stevens joins NCAIED Board Chairwoman Margo Gray-Proctor in signing ceremonies re-establishing a MOU between NIGA and NCAIED for the American Indian Business Network at RES 2009 in Las Vegas, NV.

National Indian Gaming Association (NIGA) Chairman Ernie Stevens, Jr., and the National Center for American Indian Enterprise Development (NCAIED) Chairwoman Margo Gray-Proctor renewed a partnership collaboration promoting the American Indian Business Network (AIBN) by signing a Memorandum of Understanding at the 2009 RES Conference on Tuesday, March 11, 2009.

The MOU re-establishes cooperation between the NIGA and the NCAIED that is intended to increase the availability of contractual and procurement opportunities for American Indian-owned businesses both within and outside of the Indian gaming industry. In 2007, the two organizations entered into the original agreement as a pilot project to this effort.

After signing ceremonies, Chairman Stevens said, "NIGA created the AIBN to build on our greatest resource – Indian Country. We must be committed to the continued development of a true Indian Country economy by funneling more tribal spending to native enterprises, and it is through partnerships such as this that creates a bond through relationship building and ensures a high level of quality in products, a dedicated commitment to services and much-needed growth to tribal economies."

Stevens continues, "I believe the strengths NIGA and the NCAIED lend each other will continue to be a key collaboration for Indian Country. Our cooperation helps conserve the precious resources throughout Indian Country so tribal leaders everywhere can be assured our organizations are working towards common goals for our people – strengthening our economies and protecting and preserving tribal sovereignty."

Gray-Proctor, who was recently appointed Chairwoman of the National Center said, "This partnership is a natural fit with the NIGA. It seems we are finally at the point in our economic development growth to create real business opportunities between our Native nations and Native entrepreneurs."

INDIAN GAMING '09 SCHEDULE OF ACTIVITIES		
MONDAY, APRIL 13		
Noon - 7pm	Registration	Phoenix Convention Center
Noon	Chairman's Golf Tournament	Whirlwind Golf Club at Gila River
Noon	Leadership Golf Tournament	Talking Stick Golf Club at Salt River
Noon	Sovereignty Golf Tournament	Wekopa Golf Club at FortMcDowell
7 - 10:00pm	Chairman's Welcome Reception	Hyatt Regency Phoenix
TUESDAY, APRIL 14		
7am - 5pm	Registration	Phoenix Convention Center
8am - 5pm	Native American Arts & Crafts Booths Open	Rooms 126 & 127
9am - 4pm	NIGA Membership Meeting Continental Breakfast and Coffee	Ballroom CD
9 - 10:30am	Casino Department Roundtables	Rooms 121-229
10:30am - 11:30am	Workshops Session 1	Rooms 121 - 229
9:00am - 4:00pm	Commissioner Certification Level 1	Room 224A
12:00 - 1:15pm	Chairman's Leadership Award Luncheon *	Ballroom AB
1:00 - 4:00pm	Workshops and Certifications Session 2	Rooms 121-229
4:15pm	Associate Member Meeting	Room 229A
4 - 5pm	Regional Caucuses	Rooms 121-229
8pm	Jam on the Rez	Wild Horse Pass at Gila River
WEDNESDAY, APRIL 15		
7am - 5pm	Registration	Phoenix Convention Center
8am - 5pm	Native American Arts & Crafts Booths Open	Rooms 126 & 127
9 - 10am	Workshops Session 3	Rooms 121-229
9:00am - 4:00pm	Commissioner Certification Level 1	Room 224A
9:45am	INDIAN GAMING '09 TRADE SHOW RIBBON CUTTING	Exhibit Hall Foyer
10:30am	PRESS CONFERENCE	Exhibit Hall Stage
10am - 4pm	INDIAN GAMING '09 TRADE SHOW	Exhibit Halls ABCDE
1 - 5pm	NIGA Membership Meeting and Annual Election	Ballroom CD
4 - 5pm	Workshops Session 4	Rooms 121-229
5 - 7pm	AIBN Reception presented by AGEM	Ballroom ABCD Reception Foyer
7-10pm	Wendell Chino Humanitarian Award Banquet*	Ballroom ABCD
THURSDAY, APRIL 16		
8am - Noon	Registration	Phoenix Convention Center
8am - 4pm	Native American Arts & Crafts Booths Open	Rooms 126 & 127
9am	Indian Gaming '10 Exhibitor Sign-up	
9 - 10am	Workshops Session 5	Rooms 121-229
10am - 2pm	INDIAN GAMING '09 TRADE SHOW	Exhibit Halls ABCDE
1 - 4pm	Workshops and Certifications Session 6	Room 121-299
3 - 6pm	Cultural Reception	Phoenix Convention Center

NATIONAL INDIAN GAMING ASSOCIATION
Rebuilding Communities Through Indian Self-Reliance

GOLF

INDIAN GAMING 09 PHOENIX

MONDAY, APRIL 13, 2009

Shotgun Scramble at Noon
Chairman's Tournament
Whirlwind Golf Club

Leadership Tournament
Talking Stick Golf Club

Sovereignty Tournament
We-Ko-Pa Golf Club

CROW NATION LEADER PASSES ON

Carl Venne, Chairman 1946-2009



The late Crow Nation Chairman, Carl Venne with President Barack Obama during his presidential campaign visit to the Crow Nation last summer.

National Indian Gaming Association Chairman Ernie Stevens, Jr., joins the rest of the country in expressing the loss of Crow Nation Chairman, Carl Venne, who passed on of natural causes at his sister's home on February 15th, 2009.

"We are deeply saddened by the loss of this great leader. Carl was a great role model who displayed commitment and loyalty. He kept his feet firmly rooted as an advocate for the Crow people, progressively advancing his leadership at the local, state, and national levels. We will miss our friend and leader." Chairman Stevens said.

Aashise dakatak Bacheeitchees "Crosses the big river and becomes a leader" [his given Crow name] was born July 20 1946 to Max Big Man, Jr. and Ernestine Venne and following a Crow tradition, he was adopted by Gladys and Joe Ten Bear, as a replacement son for one they had lost. Chairman Venne grew up in the Crow Agency area and attended local schools. He later attended the University of Minnesota at St. Paul and the Bureau of Indian Affairs Law Enforcement Academy in Roswell, N.M. Following his education, he enlisted in the U.S. Army and where he was honorably discharged.

Venne served three-terms as Chairman of the Crow Nation, beginning in 2002, and throughout his chairmanship he supported programs against methamphetamine use and encouraged a healthful way of life on the reservation.

He was a delegate of the Rocky Mountain Regional National Congress of American Indians, Past Chairman of the Inter-Tribal

Monitoring Association, Chairman of the Montana/Wyoming Tribal Leader's Council and the Council for Large Land based Tribes, a board member of the Montana Meth Project and was a member of the Board of Advisors to the Montana Crime Board. He had the distinct privilege of addressing the Montana Legislature in 2003 and 2007, giving the State of Tribal Nations status.

Venne was instrumental in the U.S. Senate Indian Affairs Committee's selection of Crow Agency as the place for a 2007 hearing on Indian health care.

He worked as a BIA law enforcement officer, Crow Tribal probation officer, Counselor for Little Big Horn College and as a salesman for Hardin Auto. He was instrumental in the construction of the Crow Detention facility and the Veterans Park. He was a member of the Catholic Church, Native American Church, Ties the Bundle Clan and was a child of the Piegan Clan. He actively participated in the Sweat Lodge and Sun Dance ceremonies.

His wife of 29 years Edwina and his three children, his daughters, Zena Venne, Kim He Crow and Mallory Real Bird, survive Carl.

President Barak Obama issued a statement in response to the loss of Chairman Carl Venne.

"It is with deep sorrow that Michelle and I send our thoughts and prayers to the people of the Crow Nation and of Montana, who lost a leader and a friend in Chairman Carl Venne. I was honored to have worked with Chairman Venne, a strong tribal leader, who implored us to uphold treaties and honor Native ancestors. Carl's leadership of his tribe and his fervent quest for a better life for his people is inspiring, and his passing serves as a reminder of the work that lies ahead. It was only a few short weeks ago that I last saw Carl, leading the spectacular delegation of Crow Nation horsemen in the Inaugural Parade. We join the Crow Nation and fellow citizens everywhere in observing the loss of Chairman Venne."

Adopted brother and former President of the National Congress of American Indians and Three Affiliated Tribal Chairman Tex G. Hall, issued the following statement after the burial of Chairman Venne.



"This week, my friend and brother, Carl Venne, left this world for a better one. Over the years, the times we spent together were special because he was a good man. He was, of course, more than that. He was a great man. He cared first and foremost about his family and the Apsáalooke people.

I had the privilege of working with Carl over the course of many years, as a tribal Chairman, as NCAI president, and as members of many inter-tribal organizations such as the Council of Large Land-based Tribes. For the past 7 years, Carl brought his legendary vision and talents to a new company, the Inter-Tribal Economic Alliance. A lot of the ITEA's growth and success can be traced to his tough guidance, leadership and humility.

It pretty much goes without saying that getting funds – even for worthy projects that bring new jobs to our reservations – out of the federal government is a daunting task. But as we know, Carl wouldn't take "no" for an answer.

And even though he was an elected official, he had a different outlook on life than most politicians. He was a gracious and quiet man. To him, actions were far more important than speeches or conventions. As a leader, and as a veteran, he fought for and delivered a new Veterans Park for all Apsáalooke veterans in recognition of their service.

Carl forcefully fought for his people's sovereignty. And when he won, all of Indian country won. It was Carl's persistent belief in the protection of tribal sovereignty that brought President Barack Obama to his reservation last year. Perhaps years from now, many of us will look back one day and trace the fortunes of Indian country back to that May afternoon and we will have Chairman Venne to thank."

NIGA LEGISLATIVE UPDATE

URGENT UPDATE: EMPLOYEE FREE CHOICE ACT!

On March 10th, the “Employee Free Choice Act of 2009” (EFCA) was introduced in both the House and Senate. Tribes need to act now and notify the Senate about Indian Country’s concerns. The Congressional leadership has decided that the EFCA will be voted on first by the Senate. Given the large Democrat majority, it is expected to easily pass the House of Representatives. Therefore, Tribes must contact their Senators and let them know that Indian tribes should be treated as governments for all purposes under Federal labor laws, including Indian gaming activities. Please send letters and resolutions to Senator Dorgan, Senator Inouye and your Senators opposing the EFCA unless and until Indian tribes are treated as governments under the National Labor Relations Act (“NLRA”) and EFCA. A model letter is enclosed for your assistance.

Summary:

Indian tribes are sovereign governments, recognized by the Constitution. Under President Franklin Roosevelt’s New Deal Policy, the Indian Reorganization Act of 1934 (the “IRA”) vested existing powers of government in Indian tribes. The National Labor Relations Act of 1935 (the “NLRA”), the New Deal Labor Policy, recognized the right of employees to organize labor unions in private industry, established fair trade practices, and created the National Labor Relations Board (“NLRB”) to enforce the Act. Federal, state, and local governments are excluded from the definition of “employer” and are not covered by the NLRA. For thirty years, tribal governments were treated by the NLRB as governmental employers excluded from the definition of the NLRA. In 2000, the 10th Circuit Federal Court of Appeals upheld the right of the Pueblo of San Juan to enact a tribal right to work ordinance, giving tribal employees the choice whether to join a union. *NLRB v. Pueblo of San Juan*, 276 F.3d 1186 (10th Cir. 2000).

In 2004, the NLRB heard a complaint from the Hotel Employees and Restaurant Employees Union (“HERE”) that San Manuel Bingo had provided preferred access to its employees to the Communication Workers of America Union (CWA) over HERE. The San Manuel Band argued that under NLRB precedent the NLRA did not apply to tribal governments.

NLRB reversed its prior rulings and held that the NLRB applied to Indian gaming employees because it found that Indian gaming is a quasi-commercial activity. The Federal Court of Appeals for the District of Columbia affirmed the NLRB decision in 2004, *San Manuel Bingo v. NLRB*, 475 F.3d 1306 (D.C. Cir. 2004), ruling that despite the statutory language of the Indian Gaming Regulatory Act (“IGRA”) (Indian gaming is intended to build “strong tribal governments”), Indian gaming is similar to a commercial enterprise and so covered by the NLRA. In a companion decision *Yukon Kuskokwim Health Corp.*, the NLRB ruled that when conducting traditional tribal government activities, such as providing health care, tribal governments are excluded by the NLRA.

Labor unions have made enactment of the so-called Employee Free Choice Act (“EFCA”) a top priority in the 111th Congress. EFCA is a proposed amendment to the NLRA, which seeks to increase the power of unions to organize employees by permitting “card checks” by a majority of employees instead of a secret ballot election to decide the formation of a labor bargaining unit. EFCA could confirm NLRA application to Indian gaming without recognizing it as a governmental activity.

Background: The National Labor Relations Act (NLRA)

The NLRA establishes the framework for labor organization and bargaining in private industry and is administered by the National Labor Relations Board (NLRB). When 30% of the employees in a bargaining unit sign cards to organize a union, NLRB calls a secret ballot election to determine if the majority of the covered employees want to be represented by the union. If a majority of employees vote to organize, the union then represents them in collective bargaining for a union contract with the employer. If no contract is concluded, the Federal Mediation and Conciliation Service (FMCS) can be called in to mediate the labor dispute. While the NLRB can order continued negotiation, there is no provision for a mandatory contract. Federal, state and local governments are exempt from the NLRA.

The Employee Free Choice Act (EFCA)

Unions are dissatisfied with the NLRA because they believe the current collective bargaining process unfairly benefits the employer during unionization efforts. Accordingly, unions are asking Congress to amend the NLRA and restore “balance” to the collective bargaining process. The EFCA would do several things, chief among them:

- **Card Check:** If 50% +1 employee signs card checks seeking to unionize, EFCA would eliminate the right of employers to call for a secret ballot and recognize the union as the representative of the bargaining unit triggering a requirement for the employer to begin labor contract negotiations;
- **Mandatory Arbitration:** If no labor contract is reached within 90 days of the commencement of collective bargaining, the EFCA would permit the union and/or employer to request mediation by the Federal Mediation and Conciliation Service (FMCS). If no mediation settlement is reached within 30 days, then the EFCA provides for mandatory arbitration to implement a labor contract.

Further, the mandatory arbitration decision would be binding for 2 years and fundamentally changes the existing law by empowering Federal arbitrators to determine employee wage scales, without employer consent.

- **Remedies For Violations of the NLRA:** The EFCA would also amend the remedies available to the NLRB for violations by the employer during the unionization process. Among the remedies, the NLRB will have the power to award employees double their back pay as liquidated damages. This provision will increase the liability and insurance costs for all employers who fall under the NLRA.

NIGA Position: Tribes Will Oppose the EFCA unless it is Amended to Treat Indian Tribes as Governments

NIGA has always maintained that Indian tribes should be treated as governments under the Federal labor and tax laws. For example, in 2000, NIGA worked to secure treatment of Indian tribes as governments

NIGA LEGISLATIVE UPDATE continued

URGENT UPDATE: EMPLOYEE FREE CHOICE ACT!

for purposes of the Federal Unemployment Tax Act. We are also seeking treatment of Indian tribes as governments under the Federal pension law. Naturally, as government employers, Indian tribes continue to support employee rights and interests and tribal governments have established tribal pension protections.

Many Native Americans are union members. For example, through the Iron Workers Union, Native Americans have participated in raising the high rise towers that are the foundation of city skylines. Many tribes have worked out agreements with the building trades in constructing gaming and hotel facilities. Indian tribes have always supported employee rights within the context of tribal law and tribal self-government.

From the 1970s to 2000, NLRB took the position that Indian tribes should be treated as governments under the NLRA. In 2000, the NLRB challenged the right of the Pueblo of San Juan to enact a tribal right to work ordinance that allowed tribal employees to decide whether to join the union or not. The Federal Court of Appeals for the 10th Circuit decided that under the NLRA, the

Pueblo retained power to enact a right to work ordinance that mandated an open shop, giving tribal employees a right to choose whether to join the union. NLRB v. Pueblo of San Juan, 276 F.3d 1186 (10th Cir. 2000).

In the San Manuel Bingo case, the Hotel and Restaurant union (HERE) sued the San Manuel Band for working with a different union to represent their employees, the Communications Workers of America (CWA) and not providing the same access to HERE. In 2004, NLRB applied the NLRA to San Manuel's Indian gaming activities. In 2007, the Federal Court of Appeals for the District of Columbia held that the NLRA applies to Indian gaming in the San Manuel case because Indian gaming is commercial in nature.

Throughout the San Manuel Bingo litigation, NIGA maintained a principled position that Indian tribes must be treated as governments for all purposes under the NLRA. NIGA continues to maintain that Indian tribes must be treated as governments under the NLRA and any amendments thereto, including the EFCA. Accordingly, NIGA rejects the District of Columbia

Appeals Court characterization. The express statutory language of IGRA makes clear that Indian gaming is a governmental activity. State lotteries are treated as governmental activities and Indian gaming should be treated as tribal governmental activity.

EFCA as introduced in the 110th Congress amends the NLRA yet does not treat Indian tribes as governments. Current exemptions for the Federal, state and local governments are maintained but Indian tribes are not included as governments. Thus, NIGA opposes EFCA unless and until it is amended to include Indian tribes as governments.

On December 8, 2008, January 7, 2009 and January 19, 2009 NIGA and NCAI held tribal leaders discussions on the EFCA. NIGA reiterated our longstanding position that Indian tribes must be treated as governments under the NLRA and other labor related statutes, including EFCA. Tribal leaders supported NIGA's longstanding position that Indian tribes must be treated as governments under Federal law, including Federal labor laws, and NCAI announced that it would seek to secure treatment of Indian tribes as governments under Federal labor laws.

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INDIAN GAMING '09

TRADESHOW AND CONVENTION

APRIL 13-16, 2009 • PHOENIX, ARIZONA

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