

NIAGARA FALLS — Gov. David Paterson is threatening to terminate the state's gaming compact with the Seneca Nation of Indians over nonpayment of past due slot machine revenues from the tribe's three Western New York casinos, including Seneca Niagara Casino in Niagara Falls.

In a letter delivered Wednesday by Paterson's chief counsel Peter Kiernan, the governor's office

informed Seneca Nation President Barry Snyder Sr. of the state's plans to invoke the negotiation provision of the compact in light of the nation's failure to pay the state roughly \$105.5 million in gaming revenue payments for 2009 and roughly \$108.6 million for 2010.

"These non payments, coupled with the nation's failure to remit in timely fashion the state exclusivity contributions from past, uncontested calendars, constitute a material, uncured breach," Kiernan wrote. "Accordingly, in absence of a prompt resolution to this matter, the state is entitled to terminate the nation-state gaming compact."

Paterson's letter calls on Seneca leaders to meet with state officials within 14 days to "negotiate in good faith and attempt to reach a prompt solution." It concludes by warning that the state plans to "commence arbitration and seek a finding of material breach" in accord with the gaming compact.

The gaming compact allows the Seneca Nation of Indians under its subsidiary, the Seneca Gaming Corp., to operate three Class III gaming facilities in Western New York, including Seneca Niagara Casino in the Falls, Seneca Buffalo Creek Casino in Buffalo and Seneca Allegany Hotel and Casino in Salamanca. All three casinos employ more than 4,000 people combined.

In a statement issued Wednesday evening, Snyder countered that the state has been in violation of the Class III gaming compact for more than two years, having authorized "Moxie Mania," a slot machine-like device installed in bars throughout Western New York, and introduced slot machines at state-run racetrack casinos within the nation's Western New York exclusivity zone. In addition, Snyder claims the state has violated the agreement by imposing "excessive and unreasonable" state police charges since the compact's adoption.

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“I have no idea why the state violated our compact, and no idea why it took the governor’s office nine months to agree to discuss the state’s breach of the compact terms,” Snyder said. “We certainly look forward to hearing the explanation of why they violated our compact.”

Snyder noted that the nation notified the state in January of its belief that the governor’s office had violated the nation’s exclusivity agreement by allowing gaming devices to be installed at non-Indian locations in Western New York, including the state-run Hamburg Casino. Snyder suggests Paterson’s office did not respond to the nation’s invitation to discuss the matter. He noted that in August, the nation’s tribal council adopted a resolution directing all exclusivity funds be withheld from payment to the state which also impacts funding to host communities like Niagara Falls. In his statement, Snyder said the nation is within its rights to withhold payment if it determines that there has been a breach in the compact. He also said the state cannot legally terminate the compact until an arbitration panel has determined that there has been an “uncured, material breach.”

In his statement, Snyder references the potential “financial hardships” the situation could present to local governments like the city of Niagara Falls who benefit from portions of the annual exclusivity payments to the state. Snyder indicated that last month the nation invited representatives from local governments to attend an Oct. 8 meeting to discuss issues surrounding the delivery of gaming revenue from Albany and potential solutions to the matters at hand.

“We look forward to a visit by state officials to Western New York to discuss these very important matters,” Snyder stated. “Perhaps through this process we can also get some simple and timely back up documentation that can explain precisely what it is that the New York State Police gaming unit does under the compact.”

Snyder’s statement did not reference another matter of contention between the state and the nation — Paterson’s proposal to tax cigarettes sold on Native American reservations.

Mayor Paul Dyster learned about Paterson’s letter Wednesday evening. He called it unfortunate that both parties could not come to terms on their differences of opinion, but said the compact includes a mechanism for resolving such disputes and said the city will continue to follow the situation as the process plays out.

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“Certainly, the city of Niagara Falls would like to see the two parties come to an agreement,” Dyster said. “There’s a mechanism in place to resolve disputes. That mechanism is being followed. I hope both sides are going to sit down at the table to try to resolve their differences without the third parties involved in the compact being damaged.”

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